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INTERNATIONAL REVIEW

OF THE RED CROSS



Published every two months by the
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<p>Because of the large amount of material concerning the <i>International Conference for the Protection of War Victims</i>, articles under the headings "In the Red Cross and Red Crescent World" and "Books and reviews" will appear in the next issue of the <i>Review</i>.</p>
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JUST PUBLISHED

HANS HAUG

In cooperation with
Hans-Peter Gasser, Françoise Perret
and Jean-Pierre Robert-Tissot

HUMANITY FOR ALL

The International Red Cross and Red Crescent Movement

With forewords by
Cornelio Sommaruga and
Mario Villarroel Lander

The forthcoming book sets out to give an accurate and suitably documented account of the International Red Cross and Red Crescent Movement. Unlike most of the works already published on the subject, which are mainly devoted to specific aspects of the Movement, the intention here is to present it in its entirety. The instruments of international humanitarian law, initiated and promoted by the ICRC, are also extensively discussed.

The author, *Hans Haug*, was a professor of public law, in particular public international law, at the St. Gallen University for Economics, Law and Social Sciences between 1967 and 1986, President of the Swiss Red Cross and Vice-President of the International Federation of Red Cross and Red Crescent Societies between 1968 and 1982 and a member of the International Committee of the Red Cross between 1983 and 1991. He begins by examining the various components of the Movement (the International Committee of the Red Cross, the National Red Cross and Red Crescent Societies, the International Federation of Red Cross and Red Crescent Societies), the seven Fundamental Principles of the International Red Cross and Red Crescent Movement, and international humanitarian law. Other subjects covered are the Red Cross and Red Crescent as a factor of peace, the cooperation of the components of the Movement with other national and international organizations, and the Red Cross and Red Crescent Movement and human rights.

This book is published by the Henry Dunant Institute, Geneva, and Paul Haupt Publishers, Bern/Stuttgart/Vienna. It appeared in *German* in 1991 and in *French* in 1992 (see review by Anton Schlögel in *IRRC*, No. 287, March-April 1992, pp. 202-205).

Orders should be sent to the Henry Dunant Institute, 114 rue de Lausanne, CH-1202 Geneva, Switzerland (price: 48 Swiss francs).

INTERNATIONAL CONFERENCE FOR THE PROTECTION OF WAR VICTIMS FROM WORDS TO ACTION

Eight hundred and fifteen delegates from 160 States, 39 Ministers, 20 Deputy Ministers and 12 Secretaries of State, the United Nations Secretary-General, the High Commissioner for Refugees and the Under Secretary-General for Humanitarian Affairs, the International Red Cross and Red Crescent Movement represented by the Presidents of the ICRC and the Federation and the Chairman of the Standing Commission, and all the major governmental and non-governmental organizations active in the sphere of armed conflict — the Swiss government succeeded within the space of a few months in arranging for all these to come together in Geneva for a three-day meeting to discuss the protection of war victims and adopt a substantive declaration on the issue. The International Conference for the Protection of War Victims was undeniably a success.

Nothing but talk, sceptics might say: what we need is action.

Of course, the holding of the International Conference for the Protection of War Victims is not an end in itself, nor can one really speak of success unless victims are actually spared and suffering is alleviated.

So words, and in particular the Declaration adopted by the Conference, must now be translated into deeds. The international community is faced with an enormous task; the discussions are over, and the time has come for resolute commitment to action.

The true success of the Conference will also depend on the extent of this commitment on the part of everyone concerned.

First and foremost, this is the responsibility of governments, which must begin by making an objective and thorough examination of the situation within their own countries. Why have they not acceded to all the instruments of humanitarian law? Have they taken appropriate national measures to ensure that their commitments in this respect are honoured? Are the rules of humanitarian law included in the instruction given to the armed forces?

The International Red Cross and Red Crescent Movement comes next. The National Societies constitute a unique humanitarian network; they must stir the conscience of the people and authorities of their respective countries, support their governments' efforts to implement the provisions of humanitarian law and play an active role in helping the most vulnerable social, cultural and ethnic groups. Their International Federation, for its part, must coordinate these development programmes and promote solidarity among peoples. As for the ICRC, it must not only see to it that humanitarian law is respected but also actively assist States and parties in conflict to meet their humanitarian obligations.

The humanitarian organizations working in the field are also involved: their dedication, discipline and strict impartiality must be exemplary in all respects.

Then the all-powerful media, which can propagate hatred as well as compassion, have their role to play.

Last but by no means least, there is the Swiss government, which has accepted the onerous task of extending the dialogue within a group of experts which the Conference asked it to set up, with a view to preparing a report for the next International Conference of the Red Cross and Red Crescent. How can preventive action be taken? How can we ensure that the universal nature of humanitarian law is recognized and clarify certain of its aspects? How can the coordination of humanitarian activities be improved? How should we deal with situations where international humanitarian law has been violated on a massive scale?

The group of experts will have to seek answers to all these questions.

However, the Conference must also be viewed as a signal. The report submitted by the ICRC called upon States to refuse to accept as inevitable the human tragedies unfolding today in the former Yugoslavia, in Somalia, Angola, Afghanistan and many other places. The States did so. It requested them to make every effort to prevent such situations from arising: they agreed to do so, just as they agreed to find ways of helping, despite everything, the victims of situations which have not been brought under control.

The signal that the International Conference for the Protection of War Victims has sent out to the international community must therefore indicate an emergence from the mire of racism, self-seeking isolationism, war and indiscriminate violence and a move towards mutual respect, solidarity, conciliation, and humanity in the midst of war.

These ideals may not be achieved in our time, but it is vital that we strive towards them.

Apart from the practical action outlined above, we must never forget the power of words, nor overlook the fact that on occasion action can take the form of words.

Words can kill as surely as weapons. They can be put to pernicious use in the media, fomenting hatred in the hearts of men and leading children to take up arms.

Yet it is also on words, on the commitment of States, that a brighter future will be built. It is words that must convey the humanitarian message in all languages to all peoples of the world. Through words, dialogue can prevail over force.

And surely our first message, in humanitarian terms, to combatants immured in their convictions, in prejudice and intolerance should be: "Talk to each other"!

Yves Sandoz
*Director for
Principles, Law and
Relations with the Movement*

INTERNATIONAL CONFERENCE FOR THE PROTECTION OF WAR VICTIMS

(Geneva, 30 August - 1 September 1993)

INTRODUCTION

The International Conference for the Protection of War Victims took place in Geneva from 30 August to 1 September 1993. The main aims of the Conference, which was convened by the Swiss government on the initiative of the International Committee of the Red Cross (ICRC), were as follows:

- to elicit a strong reaction from the various States to widespread violations of international humanitarian law;*
- to give in-depth and objective consideration to the measures which the States undertake and should further develop to prevent violations of international humanitarian law;*
- to remind all States that they must join efforts to ensure universal recognition of and respect for international humanitarian law;*
- to encourage all work undertaken to strengthen the means of repressing violations of international humanitarian law and to provide compensation for victims.*

The Swiss Federal Council invited to the Conference, as full participants, the Member States of the United Nations and its specialized agencies and the States party to the Statute of the International Court of Justice and, as observers, the UN Secretary-General, the institutions belonging to the UN system and the bodies with observer status in the UN General Assembly. The ICRC, appointed Special Rapporteur to the Conference, fell into the latter category. Other participants with observer status at the Conference included the International Fact-Finding Commission, the International Federation of Red Cross and Red Crescent Societies, various NGOs, including Amnesty International, the International Commission of Jurists, Médecins sans frontières, etc.

Dr. Boutros Boutros-Ghali, the UN Secretary-General, honoured the Conference with his presence during part of the first plenary session and delivered an address to the participants (see summary, p. 372). Mr. Jan Eliasson, Under-Secretary-General for Humanitarian Affairs, also spoke on the various aspects of the protection of war victims.

* * *

OPENING OF THE CONFERENCE

(30 August 1993)

The Conference was declared open on 30 August 1993 by Mr. Flavio Cotti, head of the Swiss Federal Department of Foreign Affairs and Chairman of the Conference, in the presence of 815 delegates from various States and organizations. A total of 160 of the 189 States invited attended the Conference. Of those, 39 were represented by ministers, 20 by vice-ministers and 12 by secretaries of state. The Conference was also attended by 16 observers and 16 other participants.

After adopting the agenda and the rules of procedure, the Conference elected 24 vice-chairmen and appointed Mr. Philippe Kirsch, Director General of the Bureau of Legal Affairs of the Canadian Department of External Affairs and International Trade, as Chairman of the Drafting Committee. All the delegations were invited to take part in the work of the Drafting Committee.

The Chairman of the Conference and Mr. Cornelio Sommaruga, President of the ICRC and Special Rapporteur to the Conference, then delivered the following addresses (published below in full):

ADDRESS BY FEDERAL COUNCILLOR FLAVIO COTTI

Your Excellencies,
Mr. President of the International Committee of the Red Cross,
Mr. President of the *Conseil d'Etat*,
Madam President of the *Grand Conseil*,
Mr. Mayor,
Ladies and Gentlemen,

Switzerland welcomes you this morning with mixed sentiments — delight, and at the same time grave concern.

It is of course with immense pleasure that we note the widespread attention our appeal has received from the international community, and the universal nature of the assembly of government representatives here today in response to Switzerland's invitation.

However the invitation itself is prompted by a feeling of anguish. For although war should long ago have been abolished as a way of solving disputes, the reality confronting us is one in which antagonists in an ever greater number of countries and regions resort to violence. These armed conflicts take various forms. In many cases the conditions which breed them are however the same: poverty, ignorance, hatred, under-development. But the most striking thing about most of these armed conflicts today is their inhumanity, amounting to a total absence of human compassion.

Ladies and Gentlemen, we have only to take an honest look within our own souls. And we shall realize that human nature — while being capable of the noblest thoughts, the most generous impulses and the loftiest sentiments — is every day prey to temptations of conformity, egotism, and to hatred of others. Inscrutable human nature, torn by contradictions. "*What fantastic creature is this Man? Such a novelty, such a monster, so chaotic, such a contradiction, a true marvel!*" (*Blaise Pascal*). If we are gathered here today, Ladies and Gentlemen, it is because we still have faith in our ability to resolve those contradictions, might I even say to get the better of human nature, by joining the forces of reason — which on this Earth Man alone possesses — and of human emotions, which at times inspire us to outdo ourselves.

It was an emotional response that made our illustrious fellow countryman, Henry Dunant, tremble — and act! — over 130 years ago. I am sure we all feel similar emotions in viewing the horrendous

images paraded before us every evening, in scenes from every corner of our tortured planet.

Both reason and emotion compelled Dunant to take a moral stand, articulated in a few simple and clear principles which require no erudite explanation. Today we are moved by an ethical necessity, the inspiration of which is equally elevated. For the task now confronting our own generation of statesmen, political leaders, and indeed all men of good will, is the urgent need to stand fast against the forces of barbarity.

What is at stake is no less than the preservation of civilization itself, and of human dignity. Human life is an absolute value, and a mystery in which we all share, despite our differences and despite any frontiers which might divide us. We who gather here today do solemnly pledge to defend that value!

That is why we have come to Geneva, to state our conviction loud and clear. Such is the message which the Swiss government has asked me to transmit to the nations of the world. For beyond all legitimate differences of opinion, and the inevitability of certain conflicts of interest, there are fundamental values to which our government shall ever remain committed, such as human rights, the spirit of openness and solidarity, and the most apt and fundamental of all — respect for the basic principles of rule by law. How many other values must the Swiss government mention? We are today to recall the most simple and elementary value of all: the sense of our common humanity, which should never be allowed to abandon us even when all the other values which should rule our behaviour have, alas, been forgotten.

Let us take as symbolic the fact that, long before the beginning of the era of international cooperation that we know today, in all its ramifications and with its specialist organizations, humanity joined together in 1864 to create the first Geneva Convention, which thus became the fundamental Charter, and of which Switzerland is customarily regarded as the custodian.

It is in this spirit that the uniquely indispensable institution we know as the International Committee of the Red Cross operates. Entrusted with the duty of seeing that the Geneva Convention is respected, the ICRC has demonstrated its dedication and great determination, and has distinguished itself in this task. I salute it for the very direct and real service it renders, quite simply, to the whole of humanity. With the help of its own experience, its autonomy, and its great diplomacy, the ICRC has managed to play a leading and independent role in ministering to the regrettably large number of demands made on its good offices, tirelessly performed. I would like to include

in this tribute the President of the ICRC, Mr. Cornelio Sommaruga, a man of action as well as of conviction, who is very often the last bulwark of the dispossessed and the hopeless.

The Committee is a privileged and respectful partner in the community of nations. Neutral and impartial, it refuses to compromise in its defence of the persecuted, of the oppressed, and of those left with no other protection. Its code of behaviour is contained in the Conventions and their Additional Protocols. The ICRC is also the very faithful partner of the international organizations, whether intergovernmental or not. Foremost among these, I would like to cite the National Red Cross and Red Crescent Societies, represented here today by their International Federation and its President, Mr. Villarroel Lander.

The ICRC also is in constant dialogue with the United Nations and with the UN High Commissioner for Refugees, in the preparation of concerted efforts on behalf of victims everywhere. Each in its own sphere acts with unstinting commitment to relieve the suffering of the victims.

Ladies and Gentlemen, the values to which I referred are already amply enshrined in the law. But solemn and binding though it be, international humanitarian law belongs alas to that category of legislation to which the world pays the least attention, and which all too often plays no part whatsoever in the military campaigns currently proliferating throughout the world. It is not laws then which are wanting, but rather the application of those laws. And it is indeed for that very reason that the Federal Council has brought you together today.

We are all aware that there is a compelling need for us to react. We cannot just turn our faces away from so many horrors. And in any case, sooner or later they must pose a threat to our own security.

We do possess a proven instrument, adaptable to the technological and political changes which armed conflicts of all kinds can undergo.

The time has come for us to vigorously reaffirm that commitment, which is binding on all of us as responsible States, to respect international humanitarian law and to see that it is respected.

Such is the purpose of the Swiss government in convening this meeting.

It may well be that such a worthy assembly of international dignitaries, gathering for a few hours to agree on a text — albeit of the highest intellectual, moral and political order — may seem derisory and lacking all common measure with the terrible realities of the fields of battle, where the fighting continues unabated and attempts are being made to bring succour. There will of course be those who find it easy

to criticize the governments thus gathered in the comfortable surroundings of Geneva, ready to mouth words which regrettably bear little relation to certain harsh realities. But, Ladies and Gentlemen, to return for a moment to the subject of human nature, is this not such as to require the occasional firm and unequivocal call to order, and to respect for those very values for which it stands? Can anyone deny that we must, from time to time, pause to reflect, to remind and compel ourselves to respect our engagements, and to renew our commitments?

Our subject here is the need to act and to effectively put into practice those legal principles whose validity we shall in the coming days solemnly reaffirm.

Your Excellencies, Ladies and Gentlemen, my dear colleagues,

This Conference and the Final Declaration which will be submitted to it can make sense only if they result in a reawakening. For that is what is needed if the ideas we defend here, and the projects dear to us, are to become reality.

In view of the nature of this Conference, the urgency with which such fearsome and on-going tragedies invest it, and the problems likely to arise, I feel it is imperative that we all try hard to forget as far as is humanly possible the disputes and political differences which separate many among us. I entreat you wholeheartedly to make this special effort for tolerance, so that we may immediately enter into a common spirit of human solidarity, and be truly united in adopting the Final Declaration. For my part, as Chairman of the Conference, I shall do my utmost to see that this spirit of tolerance remains unbroken during the time we spend together in Geneva. I respect all differences of opinion, and the at times diverging interests which sovereign powers are legitimately called upon to defend. But, in view of the importance of the task ahead, I ask you again to lay these differences aside. I appeal to you for a voluntary truce. Let us excel in moderation, to help a Conference which is itself unique to succeed, so that our common objective in being here may gain in clarity and strength and receive our full and exclusive attention. I am fully aware of the exceptional nature of the request I am making, for — I repeat — I am not ignorant of the importance of their divergent views to those concerned, nor of the different priorities of each.

Before we can defend it effectively, however, we must first make sure that the foundations of our international society are solid. In fact,

they have been undermined. War and its attendant horrors are eroding the entire structure of international cooperation, which, with much difficulty and many setbacks, it has taken us 100 years to put in place.

The most urgent task before us then is to reinforce those foundations on which all human societies stand before we can entertain any thoughts about a reign of peace and justice. Having failed to eradicate the scourge of war, we the peoples of this planet wish first of all to shelter and protect the innocent and despairing victims of war. Thereafter, hopefully, it will be easier to eliminate war itself, and to set out again on the road to Utopia.

* * *

**ADDRESS BY MR. CORNELIO SOMMARUGA,
PRESIDENT OF THE ICRC**

Special Rapporteur

Mr. Federal Councillor,
Mr. President of the *Conseil d'Etat*,
Madam President of the *Grand Conseil*,
Mr. Mayor,
Your Excellencies,
Ladies and Gentlemen,

For how long must war victims cry out for help before they are heard? Given the magnitude of the tragedies we are witnessing today, the initiative taken by the Swiss government to convene this Conference was a measure that was urgent and necessary to reinvest international humanitarian law with its full authority.

The International Committee of the Red Cross is not unaware of the difficulties faced by States wishing to create a more peaceful international order that is also more respectful of fundamental humanitarian values. In this context, I trust that the report submitted by the ICRC will provide useful guidance for your deliberations.

The report focuses on the plight of victims. It speaks out against the violence, horror and savagery that are unleashed when the basic principles of humanity are rejected. And it proposes measures to remedy the situation.

Alas, war is present almost everywhere today. Entire populations are forced to flee, subjected to reprisals, harassed, threatened by famine, or fall victim to indiscriminate bombardments. Women are raped, detainees are tortured, used as bargaining counters, forced to work on the front lines, while many others are summarily executed. Humanitarian organizations are prevented from bringing them aid, when they are not themselves the target of attacks. This weekend, as we were all preparing for the Conference, the ICRC was once again mourning the tragic loss of staff members, two of whom — two nurses — were brutally killed while bringing help to war victims. It is with deep sadness that I tell you this, for not only have we lost two highly valued colleagues, but our very ability to provide protection and assistance to victims is placed in jeopardy.

This intolerable state of affairs represents a serious threat for all of us. How can we not be profoundly disturbed when humanitarian law, the last bastion of human solidarity, is so freely flouted by the very States which, by ratifying it, have undertaken to uphold it? The international community must put an end to these unacceptable practices as a matter of urgency, or else the horrors seen today will slide into absolute chaos. This Conference provides us with the opportunity to take action. The Declaration you will adopt at the end of your discussions must be the expression of your readiness to restore to international humanitarian law its full authority. For, let there be no mistake, what is being called into question today is not the content of this law, but observance of its rules and the willingness of the international community to ensure that they are observed in all circumstances. This universal commitment must be reaffirmed and measures taken to make it perfectly clear to belligerents that they will be held responsible and accountable for their acts before the entire international community.

The ICRC and many other impartial humanitarian organizations, whose admirable work I should like to mention here, have time and again called for a humanitarian mobilization. Unfortunately, so far these appeals have produced only meagre results. So we often had no choice but to carry on, despite all the obstacles in our path, trying to reach and protect the victims without any discrimination. In some conflicts we have been successful. In others, as you know, our efforts have fallen tragically short. The ICRC's report to this Conference analyses the reasons for this. It also puts forward suggestions which I hope will be examined with the greatest attention. In fact, taking the obligations laid down in international humanitarian law seriously and reacting to massive violations of humanitarian principles are more than

a duty towards the victims; they are a prerequisite for building peace and strengthening international security.

To be able to act effectively, their sole concern being to assist and protect conflict victims, humanitarian organizations obviously need a law that is known and respected. They must also be able to operate with total independence and impartiality, particularly if they are working under the protection of the red cross or red crescent emblem.

Indeed, I am firmly convinced that the efficacy and credibility of humanitarian action and the degree to which it is accepted by belligerents are a direct corollary of that independence. It is therefore essential to draw a clear distinction between the role of States in peace-keeping operations and the role of neutral and impartial humanitarian organizations.

Political action and humanitarian action are of course complementary, but each has its own dynamics. The ultimate aim of political action is to address the underlying causes of the dispute between the parties, whereas the primary purpose of humanitarian action is to bring help and protection to the victims. We must bear in mind that any attempt to combine the two in a single approach, or to link them in a single negotiation process, may lead to the politicization of humanitarian action, which will then become hostage to the political and military manoeuvring associated with any conflict.

This does not mean that humanitarian action can do without the political backing of States. It should not, however, be regarded as a means of pursuing political aims; on the contrary, it is politics that should be at the service of the humanitarian cause. In this connection, recent initiatives taken within the United Nations to suppress war crimes deserve to be supported and developed, not only with reference to one specific situation but also with a view to setting up an international tribunal with jurisdiction over all armed conflicts.

International humanitarian law does, as you know, provide for other mechanisms of implementation which offer States a wider range of possibilities for ensuring compliance with the law. For instance, the task of monitoring such compliance may be assigned to Protecting Powers; it may be facilitated by the work of the International Fact-Finding Commission provided for in Protocol I additional to the Geneva Conventions; or recourse may be had to Article 89 of the same Protocol which creates an obligation for States, in the event of serious violations of the law, to act jointly or individually in cooperation with the United Nations and in conformity with the UN Charter. Are these measures not sufficient? Or is there perhaps too little awareness of the way in which they are used? In the momentum created by

this Conference, the ICRC, as stated in its report, intends to conduct consultations with a view to working out and defining means whereby States can fulfil more effectively the undertaking they have made, namely, not only to respect but also to ensure respect for humanitarian law in all circumstances.

Indeed, multilateral contacts on compliance with and development of humanitarian law must be pursued after this Conference. The form and procedures for this dialogue have yet to be decided. Given the commitment of the National Societies, I hope for my part that it will also take place in the autonomous framework of International Conferences of the Red Cross and Red Crescent. In the interval, intermediary procedures may usefully be adopted.

Allow me to express the hope that the Declaration you adopt at the end of your proceedings will go beyond mere statements of intent, which only too often remain a dead letter. I trust that the Declaration will be an assertion of your active solidarity with the victims, without any discrimination, and of your resolve to respond with fresh determination to their cries of distress. I trust also that it will offer a response to the urgent pleas of impartial humanitarian organizations for more effective security guarantees for their delegates.

One hundred and twenty-nine years ago States gathered for the first time, at the initiative of the founder of the Red Cross and of the Swiss Federal Council, to adopt the original Geneva Convention. Today, here in the same city, this Conference should feel that it has inherited a moral duty. A duty that, for the sake of the countless victims of conflict, States can no longer evade. On the contrary, they must place it at the centre of their long-term political concerns and at the very heart of their responsibilities.

Thank you for your attention and for your understanding.

* * *

PROCEEDINGS OF THE CONFERENCE

Principles and rules

Some 120 delegates, including both full participants and observers, took part in the plenary discussions. They made numerous references to the Report on the Protection of War Victims which the ICRC had

prepared for the Conference. The full text of the Report appears on pp. 391-445.

The delegates first thanked the Swiss government for having convened the Conference at a crucial time when the fundamental rights of individuals were being severely violated on a massive scale and expressed their deep sympathy for the loss of three ICRC delegates, two of whom had recently been killed in a despicable ambush in Sierra Leone. In the light of that tragic incident, they stressed the urgency of the challenge to which the international community was being called.

As succinctly put by one delegate, the Conference had a threefold aim: first, to heighten awareness of the plight of the victims of international and internal armed conflicts, especially innocent civilians; secondly, to denounce repeated and excessive abuses and breaches of international humanitarian law; and lastly, to urge governments to undertake firm commitments, especially to respect and ensure respect for the existing law.

The speakers were unanimous in firmly condemning all violations of the fundamental rights of the individual, grave breaches of humanitarian law and repeated outrages against human dignity wherever and whenever they occurred.

The delegates viewed the need to respect the existing rules of humanitarian law as more important than new standard-setting. They thus reaffirmed the validity of the existing rules, while acknowledging that certain rules needed to be further specified or developed. That was the case, in the opinion of several speakers, of the rules protecting the victims of internal conflicts and those protecting the environment in times of armed conflict. A number of delegates spoke convincingly of the devastation wrought by the indiscriminate use of increasingly pernicious forms of anti-personnel mines and voiced support for restrictions or prohibitions on excessively cruel weapons. In particular, they hoped that the conference to review the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons would address what they considered to be serious shortcomings in the law. They also encouraged the ICRC to organize meetings of experts with a view to preparing thoroughly for that conference.

Several delegates condemned the widespread recourse to shelling and the increasing use of indiscriminate weapons in internal conflicts, whose victims are mainly civilians. They also underscored the inadequacy of the rules applicable to the conduct of hostilities in non-international conflicts and expressed the wish that the provisions of the

Geneva Conventions, their Additional Protocol I and the 1980 Convention be extended to apply to those conflicts. They stressed moreover that it was unacceptable for States to resort in internal conflicts to methods and means of warfare which were prohibited in international conflicts. A number of speakers, pointing to the "grey areas" existing between international humanitarian law and international human rights law, also highlighted the importance of a concerted approach by the authorities responsible for implementing the two bodies of law and encouraged all work undertaken to define the minimum humanitarian standards which must be observed in situations of internal violence and tension.

Means of action

Broad support was expressed for the adoption of an effective preventive strategy comprising the following measures:

- Implementation, at the national level and in peacetime, of legislation to ensure respect for international humanitarian law and to repress violations thereof.*
- Recommendations to States which had not yet done so to become party to the international humanitarian law treaties and to recognize the competence of the International Fact-Finding Commission set up under Article 90 of Additional Protocol I of 1977.*
- Further development of instruction in and dissemination of international humanitarian law. Specific examples were given in relation to that measure, which was considered essential, and mention was made of the relevant recommendations made by the ICRC in its Report. It was also stressed that international humanitarian law should be included in military instruction for all ranks. Moreover, in view of the many types of conflicts being waged, instruction in humanitarian law should also be given to paramilitary forces and the police. In addition many speakers underscored the need to teach the fundamental rules of humanitarian law to the civilian population, especially young people, and to draw the attention of the media to those rules.*

Problems related to humanitarian action

Where should the line be drawn between political and humanitarian considerations? This question was at the heart of various discussions on the nature of humanitarian action during armed conflicts, the obstacles faced by humanitarian personnel in the exercise of their duties and violations of humanitarian law which hindered relief efforts and jeopardized peace.

What solutions can be found to those problems? A number of participants, taking the view of the UN Secretary-General, advocated multilateral humanitarian diplomacy as a means of resolving the difficulties with which the international community was faced in relation to modern conflicts (see the summary of Dr. Boutros Boutros-Ghali's address in the box on p. 372).

Other participants made a point of strongly reaffirming the specific and independent nature of humanitarian action, emphasizing that it could not in any event be considered a substitute for political negotiation. Mrs. Sadako Ogata, United Nations High Commissioner for Refugees, reiterated that basic principle in her address, a summary of which is published on p. 373.

In the light of existing conflicts some delegates deemed it necessary to define the nature of humanitarian action and draw a clear distinction between it and peace-keeping activities. One participant stressed that everything possible must be done to ensure that neither violence nor obstacles of a political or administrative nature prevented international aid from reaching those who were in dire need of it. The States, he said, were duty bound to reaffirm their commitment to cooperate fully so that relief operations could be undertaken safely, rapidly and effectively.

Several delegates underscored that the issues at hand were above all the will of States to fulfil their obligations, the need for better coordination among relief agencies, the appropriate distribution of tasks among those agencies in keeping with their respective mandates, and genuine consultation on the priorities to be set for humanitarian operations, particularly in countries where State structures were no longer able to ensure compliance with the law.

A number of representatives from developing countries challenged the validity of a right to humanitarian intervention which, in their opinion, both flouted the principle of national sovereignty and was a source of confusion and injustice since certain countries benefited from it while others did not. One participant exclaimed: "There

ADDRESS BY DR. BOUTROS BOUTROS-GHALI **Secretary-General of the United Nations**

(Summary)

The Secretary-General of the United Nations, Dr. Boutros Boutros-Ghali, considered that the International Conference for the Protection of War Victims showed, in a world where violence and uncertainty prevailed, that "it is always at these troubled moments in history that the conscience of the world revolts and, raising its voice above the conflicts and the hatreds, proclaims its faith in the individual".

He stressed that reflection should be focused on ways of heightening the effectiveness of and making improvements to humanitarian law, which was "essentially an avant-garde form of law" and one which had highlighted the importance of the individual even before the emergence of human rights law. It was up to the States, which had undertaken to be the guarantors of humanitarian law, regional organizations and non-governmental organizations to carry out this reflection, which was "essential and urgent, in view of (...) conflicts of which our conscience disapproves and which the law condemns, to keep finding new ways of better protecting civilian populations".

To that end, the United Nations had undertaken three forms of action: standard-setting, diplomatic and jurisdictional. Its standard-setting action consisted first and foremost of "assistance and support for and expansion of the action taken by States in implementation of major international instruments, particularly the 1949 Conventions and the 1977 Additional Protocols". Most of the main United Nations organs, including the General Assembly, the Security Council and the International Court of Justice, also contributed in their particular sphere of competence to the consolidation of humanitarian law.

Moreover the General Assembly and the Security Council had developed the outline of a true humanitarian diplomacy, first of all in the context of the humanitarian assistance provided by the United Nations since 1988, and also in its peace-keeping operations which had included since 1991 "a humanitarian assistance component, in addition to the restoration of democracy".

The jurisdictional efforts undertaken by the United Nations included the establishment of an International Tribunal to try persons presumed responsible for violations of human rights in the former Yugoslavia.

In conclusion Dr. Boutros-Ghali emphasized the importance of working both on an emergency footing and in the longer term. "On an emergency footing," he said, "the task is to protect civilians in times of armed conflicts. (...) But we also need to act in the longer term, in other words to protect peace and forestall possible conflicts".

STATEMENT BY MRS. SADAKO OGATA
United Nations High Commissioner for Refugees

(Summary)

Mrs. Ogata deplored that "we have passed the threshold of what is tolerable in modern warfare, especially as regards the treatment of civilian populations" and considered that "before we attempt to further develop international humanitarian law, we must demand the scrupulous respect of existing principles and instruments", especially the Geneva Conventions and their Additional Protocols.

In her opinion, a major problem was "the politicization of humanitarianism". She added: "On the one hand, humanitarian endeavours must not contribute to delaying, or indeed replacing, political negotiation. On the other, they must not be used as an instrument for the pursuit of political or military goals. Yet, humanitarian institutions are increasingly being manipulated and blackmailed, the aid they provide is being abused by parties to conflicts, for the furtherance of their non-humanitarian objectives. It is essential that the independent, non-political and impartial nature of humanitarian action be forcefully reaffirmed, preserved, perceived as such and respected by all".

Mrs. Ogata also stressed that "States have primary and collective responsibility for redressing this wholly unacceptable situation. Their responsibility does not diminish as a result of their non-involvement in, or their remoteness from, a conflict. (...) No belligerent must be allowed to behave as if it were immune from the imperatives of humanity and exempt from national and international accountability".

In conclusion, Mrs. Ogata, in her capacity as United Nations High Commissioner for Refugees, emphasized the importance of the right to seek and enjoy asylum, which certain States were tempted to curb, and the need to protect refugees and other victims of war.

cannot be one humanitarian law for the rich and another for the poor”.

The delegates praised the ICRC for its protection and assistance activities, underscoring in particular its crucial role as neutral intermediary in times of armed conflict.

It also emerged from the discussions that many delegates were deeply concerned about the safety of ICRC personnel and those of other humanitarian agencies. One participant wondered to what extent recourse to military protection was compatible with the impartiality of humanitarian action and whether such protection might not compromise the ICRC's neutrality. The delegate also wondered to what extent the ICRC should stay out of the decision-making process for the deployment of UN peace-keeping forces.

Those issues certainly call for clarification and thorough consideration of the joint strategy to be adopted by the humanitarian agencies and the States concerned, in particular with regard to military protection for humanitarian operations. However, respect for the red cross and red crescent emblems remains the sine qua non to ensure the safety of humanitarian workers. Many delegates therefore stressed the obligation of States to spread knowledge of the fundamental meaning of those emblems, which implied a special effort to enlist the help of the media in explaining the meaning of humanitarian action during armed conflicts.

Repression of breaches of international humanitarian law

The delegates gave considerable attention to the repression of serious breaches of international humanitarian law. They emphasized the duty of the States party to the Geneva Conventions to put an end to violations of the law and to repress serious breaches thereof and pointed out that it had become necessary to develop new measures to deal with the large-scale violations which were being perpetrated in current conflicts and were a source of deep concern to the international community.

Numerous speakers stressed the importance of the International Fact-Finding Commission set up in accordance with Article 90 of Protocol I. While pointing out that the Commission did not have jurisdictional powers, they emphasized that it was nevertheless a permanent and independent body which provided a useful means of promoting respect for international humanitarian law. Although the Commission was intended to help the States ensure better implementa-

tion of the law, it was unfortunately still too little known and its services too infrequently called upon. A number of delegates also urged the States which had not yet done so to recognize the Commission's competence.

The repression of grave breaches of international humanitarian law, together with dissemination, were the two most discussed items on the agenda. Most of the speakers strongly asserted that the perpetrators of war crimes must be prosecuted, and endorsed the establishment by the UN Security Council of a tribunal to try persons accused of grave breaches of international humanitarian law committed on the territory of the former Yugoslavia since 1991. They also strongly advocated the setting up of a permanent international penal system and hoped that the work of the UN International Law Commission would lead to the drafting of a Code of Offences against the Peace and Security of Mankind.

One delegate also suggested that a mechanism be set up under which the States would have to submit periodic reports on measures they had taken to comply with their humanitarian obligations under the Conventions. The consideration of those reports could be carried out by an international body set up for that purpose, similar to the UN Commission on Human Rights but dealing with military and humanitarian matters.

Ensuring effective follow-up

In conclusion the delegates agreed that better implementation of international humanitarian law was vital and that it was important for the States to study and adopt practical means of promoting full respect for the law and the application of its rules. In other words the delegates stressed the importance of ensuring a follow-up to the Conference. They also welcomed the Swiss government's initiative to convene a group of intergovernmental experts to study various means of ensuring the implementation of the conclusions of the Conference and to prepare a report for submission to the States and to the next International Conference of the Red Cross and Red Crescent.

The President of the International Federation of Red Cross and Red Crescent Societies, Mr. Mario Villarroel Lander, drew attention in his address to the key role which the International Red Cross and Red Crescent Movement would undoubtedly play in ensuring a follow-up to the Declaration adopted by the Conference. He shared "the concerns of those that see respect for international humanitarian law

as the most effective way to disrupt the spiral of violence that causes appalling suffering” and stressed that the purpose of the Conference was to send to the entire world the signal that human dignity was the overriding and absolute principle of the law. He said, in particular: “The National Red Cross and Red Crescent Societies, whose primary function it has always been to support the public authorities in their humanitarian tasks, have been engaged in disseminating international humanitarian law as well as the principles and ideals of the Movement with the primary objective of inculcating that respect for human dignity is the essence of the law. In a true spirit of solidarity, the Federation in cooperation with its National Societies gives assistance to those who are in need and by its neutral and impartial assistance to all victims it promotes lasting peace, which is not simply the absence of war, but is a dynamic process of cooperation among all Nations.

[...] I am recalling these essential principles regarding the relationship between States and the Red Cross and Red Crescent in order to emphasize that the Federation and its member Societies are doing their utmost to achieve the highest standards of performance with the aim to bring relief by all available means to all disaster victims. However, we could improve our performance if, in accordance with paragraph 3 of Article 81 of Protocol I additional to the Geneva Conventions, the States Parties and Parties in conflict facilitate in every possible way the assistance which Red Cross and Red Crescent organizations and the International Federation extend to victims”.

He also expressed the hope, on behalf of all the National Societies members of the Federation, that the International Conference of the Red Cross and Red Crescent would continue to bring together the States and the components of the Movement since it “has been a widely accepted and highly reputable forum for discussion of problems regarding the implementation of international humanitarian law”.

FINAL DECLARATION OF THE CONFERENCE

At the end of the discussions the participants adopted by consensus the following Final Declaration, which was submitted by the Chairman of the Drafting Committee:

The participants in the International Conference for the Protection of War Victims, held in Geneva from August 30 to September 1, 1993, solemnly declare the following:

I

1. We refuse to accept that war, violence and hatred spread throughout the world, and fundamental rights of persons are violated in an increasingly grave and systematic fashion. We refuse to accept that wounded are shown no mercy, children massacred, women raped, prisoners tortured, victims denied elementary humanitarian assistance, civilians starved as a method of warfare, obligations under international humanitarian law in territories under foreign occupation not respected, families of missing persons denied information about the fate of their relatives, populations illegally displaced, and countries laid to waste.
2. We refuse to accept that, since war has not been eradicated, obligations under international humanitarian law aimed at limiting the suffering caused by armed conflicts are constantly violated. We vigorously condemn these violations which result in a continued deterioration of the situation of persons whom the law is intended to protect.
3. We refuse to accept that civilian populations should become more and more frequently the principal victim of hostilities and acts of violence perpetrated in the course of armed conflicts, for example where they are intentionally targeted or used as human shields, and particularly when they are victims of the odious practice of "ethnic cleansing". We are alarmed by the marked increase in acts of sexual violence directed notably against women and children and we reiterate that such acts constitute grave breaches of international humanitarian law.

4. We deplore the means and methods used in the conduct of hostilities which cause heavy suffering among civilians. In that context we reaffirm our determination to apply, to clarify and, where it is deemed necessary, to consider further developing the existing law governing armed conflicts, in particular non-international ones, in order to ensure more effective protection for their victims.
5. We affirm the necessity to reinforce, in accordance with international law, the bond of solidarity that must unite mankind against the tragedy of war and in all efforts to protect the victims thereof. In that spirit, we support peaceful bilateral and multilateral initiatives aimed at easing tensions and preventing the outbreak of armed conflicts.
6. We undertake to act in cooperation with the UN and in conformity with the UN Charter to ensure full compliance with international humanitarian law in the event of genocide and other serious violations of this law.
7. We demand that measures be taken at the national, regional and international levels to allow assistance and relief personnel to carry out in all safety their mandate in favour of the victims of an armed conflict. Stressing that peace-keeping forces are bound to act in accordance with international humanitarian law, we also demand that the members of peace-keeping forces be permitted to fulfil their mandate without hindrance and that their physical integrity be respected.

II

We affirm our responsibility, in accordance with Article 1 common to the Geneva Conventions, to respect and ensure respect for international humanitarian law in order to protect the victims of war. We urge all States to make every effort to:

1. Disseminate international humanitarian law in a systematic way by teaching its rules to the general population, including incorporating them in education programmes and by increasing media awareness, so that people may assimilate that law and have the strength to react in accordance with these rules to violations thereof.

2. Organise the teaching of international humanitarian law in the public administrations responsible for its application and incorporate the fundamental rules in military training programmes, and military code books, handbooks and regulations, so that each combatant is aware of his or her obligation to observe and help enforce these rules.
3. Study with utmost attention practical means of promoting understanding of and respect for international humanitarian law in armed conflicts in the event that State structures disintegrate so that a State cannot discharge its obligations under that law.
4. Consider or reconsider, in order to enhance the universal character of international humanitarian law, becoming party or confirming their succession, where appropriate, to the relevant treaties concluded since the adoption of the 1949 Geneva Conventions, in particular:
 - the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts of 8 June 1977 (Protocol I);
 - the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts of 8 June 1977 (Protocol II);
 - the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons and its three Protocols;
 - the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.
5. Adopt and implement, at the national level, all appropriate regulations, laws and measures to ensure respect for international humanitarian law applicable in the event of armed conflict and to punish violations thereof.
6. Contribute to an impartial clarification of alleged violations of international humanitarian law and, in particular, consider recognizing the competence of the International Fact-Finding Commission according to Article 90 of Protocol I mentioned in Part II, paragraph 4 of this Declaration.
7. Ensure that war crimes are duly prosecuted and do not go unpunished, and accordingly implement the provisions on the punishment of grave breaches of international humanitarian law and

encourage the timely establishment of appropriate international legal machinery, and in this connection acknowledge the substantial work accomplished by the International Law Commission on an international criminal court. We reaffirm that States which violate international humanitarian law shall, if the case demands, be liable to pay compensation.

8. Improve the coordination of emergency humanitarian actions in order to give them the necessary coherence and efficiency, provide the necessary support to the humanitarian organisations entrusted with granting protection and assistance to the victims of armed conflicts and supplying, in all impartiality, victims of armed conflicts with goods or services essential to their survival, facilitate speedy and effective relief operations by granting to those humanitarian organisations access to the affected areas, and take the appropriate measures to enhance the respect for their safety, security and integrity, in conformity with applicable rules of international humanitarian law.
9. Increase respect for the emblems of the red cross and red crescent as well as for the other emblems provided for by international humanitarian law and protecting medical personnel, objects, installations and means of transport, religious personnel and places of worship, and relief personnel, goods and convoys as defined in international humanitarian law.
10. Reaffirm and ensure respect for the rules of international humanitarian law applicable during armed conflicts protecting cultural property, places of worship and the natural environment, either against attacks on the environment as such or against wanton destruction causing serious environmental damage; and continue to examine the opportunity of strengthening them.
11. Ensure the effectiveness of international humanitarian law and take resolute action, in accordance with that law, against States bearing responsibility for violations of international humanitarian law with a view to terminating such violations.
12. Take advantage of the forthcoming Conference for the review of the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons and the three Protocols thereto, which provides a platform for wider accession to this instrument, and to consider strengthening existing law with a view to finding

effective solutions to the problem of the indiscriminate mines whose explosions maim civilians in different parts of the world.

With this Declaration in mind, we reaffirm the necessity to make the implementation of international humanitarian law more effective. In this spirit, we call upon the Swiss Government to convene an open-ended intergovernmental group of experts to study practical means of promoting full respect for and compliance with that law, and to prepare a report for submission to the States and to the next session of the International Conference of the Red Cross and Red Crescent.

* * *

In conclusion we affirm our conviction that, by preserving a spirit of humanity in the midst of armed conflicts, international humanitarian law keeps open the road to reconciliation, facilitates the restoration of peace between the belligerents, and fosters harmony between all peoples.

* * *

CLOSURE OF THE CONFERENCE

The participants welcomed the spirit of good will, understanding and tolerance which prevailed during the Conference and the concern shown by the States for humanitarian issues. In their closing addresses, Mr. Sommaruga and Mr. Cotti underscored that concern and expressed the hope that the commitments undertaken by the States would bring about a distinct improvement in the implementation of international humanitarian law.

FINAL ADDRESS BY MR. CORNELIO SOMMARUGA

Mr. Chairman,
Excellencies,
Ladies and Gentlemen,

Allow me to thank you most warmly for giving me the floor once more. In my capacity as Special Rapporteur, I would like to share with you some thoughts prompted by your deliberations.

In a few moments' time our Chairman will declare this Conference closed. To attempt to take stock at this early stage would certainly be premature, considering the intensity of the work and the very large number of proposals made. Aware as I am of the dangers of going too fast and of ignoring the deeper issues that need to be pursued, I should nevertheless like to take advantage of this unique opportunity to make a few final comments.

Before I do so, however, I wish once again to thank the Federal Council of the Swiss Confederation for convening this Conference and to express my sincere gratitude to you, Mr. Chairman, and to all the representatives of the States party to the Geneva Conventions who came here to reiterate before the international community their undertaking to respect and ensure respect for the provisions of international humanitarian law. I also want to thank the representatives of governmental and non-governmental organizations, who made a point in their outstanding statements of stressing the importance they attach to respect for humanitarian law, for their valuable contributions.

I should also like to convey to you the thanks of the ICRC for the kind words spoken by many delegates in praise of its work. The ICRC understands that these words were addressed to the entire International Red Cross and Red Crescent Movement, to the National Societies which have supported its operations in the field, and to the International Federation of Red Cross and Red Crescent Societies, which imparted an important message to you this morning.

Mr. Chairman, I should also like to convey to you my sincere thanks for the remarkable way in which you have presided over our deliberations and have led this important conference to a successful conclusion.

The objectives which this Conference set for itself must be analysed from two points of view. First, we all feel there is an urgent need to find answers to the tragedies and horrors brought about before our eyes, every day, by so many conflicts born of hatred,

intolerance and political unreason. Second, this Conference has a long-term dimension: it has shown us the need for a humanitarian mobilization uniting the whole of the international community so as to restore full authority to humanitarian law by making it known, by watching more scrupulously over its observance, by considering means of strengthening the mechanisms for its implementation and monitoring and for bringing those who violate it to account. Looking beyond the immediate challenges, this Conference has endeavoured to seek answers to issues that will become urgent in the future. This implies action of a long-term and continuous nature. In this respect the Conference should be regarded, not as a goal that has been reached, but as the starting point of a process of renewed undertaking by States to respect and ensure respect for humanitarian law under all circumstances. A very great number of speakers have, in the course of the discussions, put forward specific proposals towards that end.

These proposals are too numerous and too diverse for us to review here. Each of them deserves in-depth consideration, and you may rest assured that the ICRC will pursue that task with the full attention they deserve, just as it will not fail to devote every effort to the examination and implementation of the important Final Declaration you have just adopted. Let me at this juncture express my very warm gratitude and admiration to Ambassador Kirsch of Canada for having so efficiently conducted the consultations for the drafting of the declaration. My thanks also go to all those who contributed to the result.

I have noted several points of agreement to which I should like to draw your attention. I wish to mention seven points, while realizing that other conclusions will also have to be studied in an appropriate framework.

First, it is necessary to make sure that humanitarian law is truly universal by inviting States which have not yet done so to become party to the Geneva Conventions of 12 August 1949 and to their Additional Protocols. I am pleased by the ratifications announced during this Conference.

Any inequality in the legal regime, any imbalance in the obligations undertaken by the belligerents, carries within it the seeds of violations because adversaries are not guided by the same provisions. The universality of the Conventions and Protocols therefore represents a first step — a limited step, no doubt, but a necessary one — towards universal respect for their provisions.

In the same spirit, we must appeal to States which made reservations when they acceded to the 1949 Geneva Conventions and ask

them to examine the possibility of withdrawing those reservations. Indeed, any such reservation by definition runs counter to an existing rule. It thereby creates a breach in the treaties' universality and bears within it the seeds of violations.

Moreover, these reservations are, I believe, a hangover from the Cold War and the ideological struggles of another era. It should therefore be possible to withdraw them.

Secondly, many speakers have stressed the need for improved knowledge of humanitarian law, in particular in government and academic circles and among members of the armed forces.

This is something that goes without saying, for how can humanitarian law be respected if it is not known to those who must apply it?

No army worth its salt would send into battle a soldier who has not been taught how to use his weapon. It is equally unacceptable to send to the front a soldier who does not know the rules of humanitarian law.

The basic principles of humanitarian law must therefore be taught in all armed forces throughout the world. This is a considerable undertaking, and the ICRC stands ready, for its part, to do all it can to help.

Along the same lines, I wish to emphasize the responsibility of the *media*, which all too often are content merely to retransmit images or accounts of the atrocities committed, at the risk of stirring up hatred and cries for revenge, without recalling the paramount importance of the rules which have been mocked and without calling for their respect. The potential is enormous, and if the media are prepared to meet this challenge, they can make a decisive contribution to improved knowledge of the requirements of humanity. The future will otherwise be bleak indeed.

Thirdly, we must redefine the responsibility of States — which under Article 1 common to the four Geneva Conventions are obliged to respect and ensure respect for humanitarian law at all times — of international organizations, specifically the United Nations, whose primary role is to maintain international peace and security, and of humanitarian institutions, responsible for bringing relief to the victims of conflicts. Too often in the recent past we have witnessed the dangers inherent in any blurring of mandates: this is a warning we cannot ignore.

The *fourth point* I should like to make concerns the essential nature of humanitarian assistance.

Humanitarian activities, and in particular those of the International Committee of the Red Cross, are carried out within the framework of the international rules which your States have accepted. They are based on obligations by which States have duly and freely agreed to be bound. They are guided by the Fundamental Principles proclaimed by the International Red Cross and Red Crescent Conferences in which your governments have participated, namely the principles of humanity, neutrality, impartiality and independence. In this respect, humanitarian assistance in no way constitutes interference or unlawful intervention in the internal affairs of States.

As a *fifth point*, we must always bear in mind the universal value of the basic principles of humanitarian law. This universality stems from the fundamental rights of the individual, from the right of every man, woman and child to be treated humanely, with respect for his or her physical integrity and dignity, no matter what the circumstances. While the rules applicable in non-international armed conflicts may therefore quite legitimately be narrower in scope than those applicable in conflicts between States, we must not forget that the principles underlying both are identical and that those principles transcend the different categories of conflicts.

We must have the courage to recognize that it is unacceptable for States to use against their own people methods and means of warfare which they have undertaken not to use in the event of a war with another State.

And let us not forget either that the overwhelming majority of conflicts raging in the four corners of the globe today are internal.

My *sixth point* is perhaps the most difficult — we must find the means of putting an end to the grave, deliberate and repeated breaches of the law we have witnessed in the past few years.

Many of you have underscored the need for a universal and permanent international penal jurisdiction to repress war crimes.

The ICRC wholeheartedly approves these declarations. It is indeed unacceptable that war crimes should go unpunished. Furthermore, the prospect of punishment must have a dissuasive effect, and may serve to prevent further violations.

The measures proposed are important ones, but they will not suffice.

Let us not forget that every grave breach of the Geneva Conventions entails not only the responsibility of the individual who committed it, but also that of the State which ordered it and stood by while it was committed.

The means must therefore be found of bringing States responsible for grave breaches of humanitarian law to conform with the commitments they made.

By taking a first step in this direction, your Conference has raised fresh hope among peoples; let us not disappoint them.

For the means exist, be they diplomatic, economic or even military, in extreme cases and when the violations of humanitarian law are so serious that they constitute of themselves a threat to peace.

The ICRC, for its part, stands ready to pursue its consultations with experts to determine the measures which could be taken, in conformity with public international law, to enable States to fulfil their obligation to ensure respect for humanitarian law in all circumstances.

My *final point* is as follows: we all agree that our work will not stop with the adoption of the Final Declaration, drawn up with such care by the Drafting Committee, or when the Chairman declares that this Conference on the Protection of War Victims is over.

The peoples you represent expect tangible results. There must be a follow-up to your deliberations.

On Monday, I suggested in my opening address that this task could be given to the International Red Cross and Red Crescent Conference, which is particularly well qualified to assess how the conclusions of the International Conference for the Protection of War Victims have been implemented, since each of your governments will be present, alongside the National Red Cross and Red Crescent Societies, their International Federation and the ICRC. The final declaration sets forth a good solution in this respect.

Within the framework of the mandate conferred upon it by all the States party to the Geneva Conventions, to ensure that international humanitarian law is applied, and as a follow-up to its role of Special Rapporteur at this Conference, the ICRC is willing to be a part of any initiative taken by the Swiss government, as the depositary of the Geneva Conventions, with a view to ensuring the implementation of this Conference's conclusions and, in particular, respect for the important final declaration you have just adopted.

Mr. Chairman, Excellencies, Ladies and Gentlemen, these are the thoughts that I wished to share with you after listening to the more than 120 statements made in this hall over the past three days.

But these considerations, the remarkable statements made, must not be allowed to drown out the calls of the victims of war, the pleas of the populations who are the victims of indiscriminate attacks

and violent and arbitrary acts, the moans of prisoners being ill-treated, the heart-rending cries of wounded children.

We must open our hearts to the silent lament of the starving child who realizes he will die.

This is why I am sure I can say that I speak for all those gathered here today when I launch, through you, distinguished Delegates, in the name of us all, an urgent and solemn appeal for all the States you represent and all the belligerents involved in all the conflicts everywhere in the world to abide strictly by the provisions of the Geneva Conventions, and to take all necessary precautions to spare non-combatants, protect the civilian population, respect prisoners, and collect and care for the wounded and sick without discrimination. For only by complying with humanitarian law in the midst of the fighting can the foundations of peace be laid.

Res, non verba!

* * *

FINAL ADDRESS BY Mr. FLAVIO COTTI

Mr. President of the International Committee of the Red Cross,
Excellencies,
Ladies and Gentlemen,

We have now come to the end of this Conference and it remains for me to sum up what has been accomplished here.

I should first like to note the excellent spirit of cooperation that has prevailed throughout our deliberations.

Your self-discipline has enabled us to steer clear of most of the hazards that might have undermined the atmosphere and thus jeopardized the success of this Conference.

Your determination from the start to seek out common ground and work together in a spirit of consensus has imbued the Final Declaration with particular force and meaning. Your approach has shown the urgency you attribute to the problem of protection for the victims of war. Yet words are not enough to counter the fearsome events that unfold daily before us. That, too, you have clearly understood and you have moreover evidenced your will to act, to take a

series of practical steps to strengthen implementation of the Geneva Conventions and their Additional Protocols.

You have also shown your firm desire to ensure that the work of this Conference is properly followed up, without creating new mechanisms but nevertheless allowing for us to remain in productive contact and give mutual consideration to ways and means of better coordinating humanitarian action.

We expected an awakening, a heightened awareness among political leaders. Now we can add to that a follow-up process that will help to increase the impact of this Conference upon public opinion and give tangible effect to the principles espoused here.

It is a source of great satisfaction to the Swiss Federal Council that its initiative in inviting the States to meet here has been so well received and understood. The victims of war look to us for an answer, and their cries of distress have reverberated within these walls throughout the last three days.

Have we done enough? Are we now prepared to go beyond the words we have pledged and tackle the situations we have described, so as to strengthen international humanitarian law in actual practice?

The answer is obvious; it encourages us to pursue our efforts to increase protection for the victims of war.

These three days of absorbing discussion have enabled the international community to take up once again a dialogue between States on purely humanitarian considerations; we have given priority to those considerations, and have firmly relegated our political quarrels to second place.

This dialogue has highlighted the determination of all States finally to meet the challenge of mounting violence and cruelty. As United Nations Secretary-General Boutros Boutros-Ghali said from this very podium, "it is always at these troubled moments in history that the conscience of the world revolts and, raising its voice above the conflicts and the hatreds, proclaims its faith in the individual".

Together we have uttered this call for humanity, and together we have honoured the hope that springs eternal in all human beings even in the darkest hours.

It is now up to us to give substance to the ideas enshrined in the Declaration, to translate the mandate you have entrusted to the Swiss government into action.

Next year Switzerland will accordingly convene a meeting of intergovernmental experts. We will consult you beforehand about the procedure and agenda for the first meeting of this open-ended group.

In the meantime, we will distribute the text of the Final Declaration to all governments, to the United Nations and to the International Red Cross and Red Crescent Movement. Thank you.

ICRC translation of the original French text.

INTERNATIONAL CONFERENCE
FOR THE PROTECTION
OF WAR VICTIMS

(Geneva, 30 August - 1 September 1993)

**REPORT
ON THE PROTECTION
OF WAR VICTIMS**

Prepared by the
International Committee of the Red Cross

Geneva, June 1993

The law of armed conflict is without doubt no substitute for peace. As the sparks of violence fly and passions flare it does, however, constitute one last bulwark of sanity and human values, one final statement of human fellowship.

Denise Bindshedler-Robert

(English translation: ICRC)

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DEFINITIONS AND PRINCIPAL INTERNATIONAL HUMANITARIAN LAW TREATIES

Definition of international humanitarian law

“The expression **international humanitarian law applicable in armed conflict** means international rules, established by treaties or custom, which are specifically intended to solve humanitarian problems directly arising from international or non-international armed conflicts and which, for humanitarian reasons, limit the right of Parties to a conflict to use the methods and means of warfare of their choice or protect persons and property that are, or may be, affected by conflict. The expression is often abbreviated to **international humanitarian law or humanitarian law**”.

Commentary on the Additional Protocols of 8 June 1977, p. XXVII, ICRC, Geneva, 1987.

The Martens clause

In cases not covered by international agreements, “civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience”.

Formulation adopted in Article 1, paragraph 2, of Additional Protocol I of 1977.

Principal international humanitarian law treaties:

- Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (Convention I), of 12 August 1949.
- Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Convention II), of 12 August 1949.
- Geneva Convention relative to the Treatment of Prisoners of War (Convention III), of 12 August 1949.
- Geneva Convention relative to the Protection of Civilian Persons in Time of War (Convention IV), of 12 August 1949.
- Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977.
- Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977.
- The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, of 14 May 1954.
- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects, of 10 October 1980.

Preamble

This Report on the Protection of War Victims has been drawn up by the International Committee of the Red Cross (ICRC), which has been mandated to work for the faithful application of international humanitarian law, and for the dissemination and possible development of that law. The ICRC wishes to thank the International Federation of Red Cross and Red Crescent Societies for its useful comments.

Based on the experience of the ICRC in armed conflicts and on the action taken by governmental and non-governmental organizations in such situations, the report seeks to identify and clarify the sometimes

insurmountable problems encountered in the application of international humanitarian law. Such problems have led to large-scale violations of the law in question, to immeasurable suffering and to countless individual and collective tragedies.

No mention is made in the report of specific conflicts as the examination thereof does not fall within the terms of reference of the International Conference for the Protection of War Victims and would only give rise to polemics. It would seem that every State should first and foremost analyse what it is doing and what improvements it can make to adopt and to encourage the adoption of international humanitarian law before giving way to the temptation to criticize the shortcomings of others.

The purpose of the report is to provide governments with a basis for reflection in order to decide on their own commitment. It is upon this commitment, above all, that the possibility of caring for the innumerable victims and protecting others in future from the same fate will depend. The report also mentions various activities which the ICRC is willing to undertake or which could be undertaken by other institutions.

* * *

The document is divided into four parts.

It begins with a brief *description of the current situation* in order to underline the unacceptable state of affairs and the urgent need for a vigorous and determined response by the whole international community.

The document then goes on to stress *prevention*. It is a bitter fact that in many cases the unbearable suffering of the victims of armed conflicts have to be all too obvious before governments will react, at considerable expense, after having done little to support preventive measures that would have cost far less. Yet such preventive measures, if carried through with commitment and imagination, can be highly effective. We must recognize this and *take action* to restore humanitarian values rather than simply reacting with makeshift solutions to situations in which these values are blatantly disregarded. *The erosion of humanitarian values is not inevitable.*

The third section of the document deals with the *problems currently being encountered* when carrying out humanitarian activities in armed conflicts. While every effort must be made to avoid a recurrence of situations such as those now taking place, we have no choice

but to do whatever is humanly possible to care for the victims by seeking to resolve the specific problems that have arisen. Some of them are new and highly sensitive, such as the difficulty of access to victims, security problems, the role of armed escorts and the coordination of relief operations, and it has been necessary to improvise solutions. We must now stand back and give renewed consideration to them so that the experience gained can be turned to future account.

The fourth section is devoted to the *repression of violations* of international humanitarian law, which is indispensable if the law is to be respected. This whole question has been highlighted again by the establishment of an International Fact-Finding Commission and the efforts undertaken to create an international war crimes tribunal.

1. Rejecting the unacceptable

A vigorous reaction to the present events in the theatres of armed conflict is needed from the international community. The main aim of the International Conference for the Protection of War Victims is to bring about such a reaction.

It seemed justified to begin this section with some accounts taken from the reports of ICRC delegates over the past two or three years.

In part 1.2 below the main features of the present situation are outlined.

1.1 Extracts from reports by ICRC delegates

Massacre of civilians

We are visited by a refugee who once more, at the peril of his life, crossed the town to tell us about the massacre. He was there early in the morning and saw the heap of dead bodies and wounded. He talked to some of the survivors; the atmosphere can well be imagined. He is the first to have spoken of genocide and estimates the number of victims at between two and three hundred. We are all deeply shocked and stunned by the news.

* * *

Gradually, moving from bed to bed, examining the bruised bodies and listening to the teenagers (it is they who talk the most), a horrifying film of the events is pieced together frame by frame. When the soldiers opened fire, a dozen of them in a row, they were some 30 yards (30 m) from the entrance. The crowd, estimated at 1,000, had not yet entered; the people had their backs to the five-foot (1.5 m) surrounding wall. The door was narrow and the wall high — escape was impossible. Many must have died right there, shot down at almost point blank range. Others tried to flee; some of the soldiers pursued them, others climbed up on to the wall in order to take better aim at those escaping. Then they fixed their bayonets and took up their clubs. Using their rifle butts, feet, clubs and bayonets, they savagely struck, knocked down, overwhelmed and transfixed their victims. Some wounded were undoubtedly finished off in this fashion. Many eyewitness reports confirm this.

Then the firing ceased, but not the massacre. The soldiers rushed into the nearby houses; smashed, struck down and stole. Then the dead, the dying and the survivors were all loaded on to the same lorries. On the way to the hospital and in a bath of blood, the soldiers continued their savagery, using their bayonets to finish off those who were still moving. Some owed their lives solely to being loaded on first and enjoying the protection of the layer of bodies above them.

Summary execution of people protected by the red cross emblem

An ICRC truck carrying 45 passengers to the airport was diverted in front of the airport in the presence of the authorities and ICRC delegates. Eleven men subsequently disappeared and are presumed to have been executed.

Summary execution of detainees

After about two hours of waiting the policemen, who had accompanied the convoy, started to take the men from the buses, two by two, brought them to the edge of an escarpment above the river and killed them by shooting them in the head at close range. The bodies were thrown from the escarpment into the river valley.

After about 50 men had been killed in this way, the policemen took groups of 10 to 15 men from the buses, put them at the edge of the escarpment and shot them with bursts of fire. The bodies fell into the river valley.

Systematic torture of detainees

In three days I have been able to see a large number of detainees who allege severe maltreatment, many of them bearing evident and recent traces of it. It can only be assumed that the State services of repression (or the individuals in these services) feel authorized to seriously maltreat a certain number of detainees.

* * *

The torturing physician is only the tip of the iceberg of a generalized phenomenon, i.e. the capitulation of medical ethics to political power.

* * *

Detainees, sometimes concealed from the ICRC, undergo forms of torture of long unprecedented severity. Certain prisoners are beaten with iron bars, sticks or cables until they are bleeding; others are suspended from trees with handcuffs, leading in some cases to neurological problems in their hands. Kicks and blows are common currency, in particular blows to the genital organs. Other detainees are burnt by liquids which are thrown over them or which they are forced to swallow. We have recently seen an extensive third-degree burn on the back, due either to a welding torch or red-hot iron. The use of electricity is tending to become more widespread. Insults and humiliations are evidently a part of the whole set-up.

Inhuman conditions of detention

The general situation in the centre is almost unbelievably bad. The living conditions are beyond description. There is only one term for it: inhuman ...

In the past, and up to the previous visit, one could sense bitterness, rancour and sometimes revolt among the detainees, not solely concerning the conditions but at the lack of news from their families and anxiety about their close relations.

Now, it is open rebellion. The slender hope that the detainees had cherished up to the present no longer exists ...

The cold and the ice outside have also frozen their hopes; the detainees are at the end of their tether ...

Nothing can improve their conditions. Their sole hope lies in leaving here.

Hospitals lack essential supplies

At least one third of the wounded we could see were women and children. The most common injuries observed were shrapnel and gunshot wounds. In each shelter at least 100 wounded (with minor or major injuries) were found lying on the ground after having received very basic medical care.

There was a lack of everything, especially medical items and food. We witnessed an influx of patients in one of the shelters — an indescribable situation as blood was everywhere and people were dying. The effort made by the health workers and doctors was enormous, but so was their desperation because of the poor means and the lack of proper facilities and equipment.

No respect for medical work

Nobody knew the exact number of patients, and the hospital was run by “left-over” doctors with no strength, power or possibility of administering the hospital. Every patient “moved in” with his — mostly armed — family, and not even the director could discharge patients.

Patients with open fractures and wounds to extremities were simply placed in the wards — nobody had the time to do debridements. Fractures were immobilized in plasters if at all. Dressings were done daily, but this was impossible to supervise. Penicillin was administered on arrival in doses sufficient for the whole week and was mostly injected by relatives, who did not like pills. With the power of their guns they got what they wanted ...

Starving population

Apart from a few watermelons, oranges and, as always, lots of munitions, the markets are emptier than ever. The expectation of food is so compulsive that people scan the sea day and night, and in the morning report having seen the lights of a boat off shore ...

Most of the displaced persons that I saw, and who are seen almost every day by our people, are doomed to die, because food aid will arrive too late.

* * *

Just outside the town is the camp for the displaced where 11,000 people are living. Most have been there for three months and have received only some maize. We saw many families boiling dry goat skin and trying to eat that. Most huts contained severely marasmic people just lying and waiting either for help or death.

Indiscriminate use of anti-personnel mines

A young boy of eight years and his six-year-old sister were admitted to the ICRC hospital. They were accompanied by their father. The family had been refugees for five years and had returned home. Shortly after entering their house the mother stepped on a mine; she was killed immediately and the son had a leg blown off by the explosion. The daughter received multiple abdomen and chest injuries. Twelve hours later they had made their way to the ICRC hospital. Both patients were seriously ill and required multiple operations and a prolonged stay in hospital.

* * *

A 15-year-old boy was admitted to the ICRC hospital. He was tending his goats when he caught sight of an object on the ground. Not knowing what it was he picked it up. The "object" was an anti-personnel mine; it detonated, causing severe injury to his right hand. On admission to the hospital, it was decided that his hand could not be saved and would have to be amputated. His father, who accompanied him, had to come into the operating theatre to give the necessary permission for amputation.

Violation of Red Cross premises

Some fifteen people had come to the office to write Red Cross messages. Three uniformed military policemen came into the office, one of them with a pistol in his hand. The local employee reminded him that it was forbidden to enter carrying arms, but he paid no heed. The policemen asked two men, who were writing Red Cross messages, for their identity cards. These were handed over and the policemen asked the men to follow them. The local employee protested, but to no purpose. The two men followed the police out of the office.

Emergency aid diverted

It is a crime systematically to plunder what little remains of the resources or infrastructure of the country (everything is scrapped so as to be re-exported for the profit of unscrupulous traders).

It is also a crime, particularly when the population is starving to death, systematically to divert humanitarian aid so as to store it and sell it (petty armed criminals who poison the atmosphere operate within organized networks).

Negative effects of disorganized aid

Multilateral and bilateral aid has flooded into this country and contributed to the general corruption and the disintegration of economic and social structures.

Tragic consequences of arms influx

It is a crime to continue the import of arms and ammunition, so as to hand them over to permanently drugged adolescents who will use them in a completely indiscriminate way.

1.2 Characteristics of the present situation in the theatres of armed conflict

- a) The end of the Cold War and the greater possibility of using the machinery to maintain and restore peace provided for in the United Nations Charter have not yet prevented the proliferation of armed conflicts.
- b) Most of the armed conflicts are of an internal nature and most of the victims of those conflicts are civilians.
- c) The principles and basic rules of international humanitarian law remain a hard core of values universally accepted by the international community, but peacetime efforts to implement them at the national level are nonetheless insufficient and the rules of that law are still imperfectly known by those who have to apply them, especially members of the armed forces or armed groups.
- d) Certain authorities act as if they despise international humanitarian law; systematic torture, racial, ethnic and religious discrimination, hostage taking, forced and unjustified population movements and

the deliberate hindering of all humanitarian action are very frequent.

- e) The way in which States should fulfil their obligation to ensure respect for international humanitarian law, notably in cases of grave and massive breaches of that law, still gives rise to doubts and hesitations.
- f) The collapse of governmental and military structures in a number of situations makes discussion with authorities, who are incapable of following through their commitments, very inconclusive. In certain armed conflicts, the purpose of using armed force appears to have been overtaken by lawlessness and banditry.
- g) Contempt for the humanitarian rules, the collapse of governmental structures and ignorance of the basic rules of international humanitarian law all raise serious problems for the safety of personnel engaged in emergency humanitarian work.
- h) Despite the praiseworthy efforts of the various institutions providing emergency humanitarian aid, the coordination of their activities and the concerted approach they have adopted, it has not yet been possible to respond adequately and fast enough to satisfy the immense human needs arising from armed conflicts.
- i) In some situations, the institutions providing emergency humanitarian aid have had to resort to armed escorts and other *ad hoc* procedures when they encountered particularly serious security problems in their work.
- j) The financial and human resources devoted to the protection of the victims of armed conflicts are still inadequate.
- k) The relationship between the task of maintaining or restoring peace, and that of providing protection and assistance for the victims of armed conflicts should be clarified.
- l) There is often a close connection between action to prevent armed conflicts and action intended to ensure respect for humanitarian rules in the event of conflict, particularly in the field of disarmament and in that of human rights.

2. Prevention

Armed conflicts cause unspeakable suffering, whatever is done to prevent it and however well international humanitarian law is

respected. It is therefore vital to encourage and intensify all efforts to tackle the *root causes* of conflicts, such as poverty, inequality, illiteracy, racism, the uncontrolled growth of huge cities, the collapse of governmental and social structures, corruption, crime organized on a world scale, drug trafficking and arms dealing ...

To encourage *compliance with international humanitarian law* is not enough. Such encouragement cannot serve as an excuse to ignore those fundamental problems, which are moreover not only the source of conflicts but often also stand in the way of respect for that law. How indeed should young people whose sole education has been that of the streets understand the underlying principles of humanitarian law and respect humanitarian work?

Neither the present document nor the International Conference for the Protection of War Victims have any ambition of addressing problems relating to the root causes of armed conflicts. It is nevertheless essential to stress that efforts to tackle those causes and efforts to protect the victims of war are mutually complementary.

The measures described below are therefore intended to be taken *in peacetime*, to ensure that international humanitarian law will be respected if an armed conflict breaks out. They may well seem unspectacular, but they stem from the conviction that the most wonderful statements have no effect unless they are accompanied by persistent, long-term work.

2.1 Promotion of international humanitarian law treaties

By 15 June 1993, the Geneva Conventions of 1949 were binding for 181 States, i.e. virtually the entire international community. Their Additional Protocols of 1977 had also been widely accepted, with 125 States party to Protocol I and 116 States party to Protocol II. In addition, 36 States were bound by the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons, whilst 82 States had ratified the 1954 Convention for the Protection of Cultural Property.

Now that the Geneva Conventions enjoy almost universal recognition, it would be desirable if the same could be achieved for the whole range of international humanitarian law treaties and particularly the Additional Protocols of 1977. It is only through such recognition that the humanitarian rules to be applied in armed conflicts can be laid

down clearly and without ambiguity. Admittedly, many of the rules codified in the 1977 Protocols may be considered international customary law, but there are still grey areas. Since international humanitarian law, which applies in situations of armed conflict fraught with tension and distrust between the belligerents, suffers if there is any uncertainty as to the applicability of its rules, it is of paramount importance for its preservation and credibility that the rules taught during military training should be the same everywhere.

All States which have not yet adopted one or other of the international humanitarian law treaties are asked to examine or re-examine the possibility of doing so without delay.

Since the adoption of the two Protocols of 1977, the ICRC has actively promoted these two treaties. It has been supported in this policy by the Swiss government, as the depositary of the instruments. Such commitment is indispensable, if only to help administrations and draw their attention to the importance of the subject. Universal ratification of the two treaties is moreover in the interest of each and every State party to them, in particular to clarify its own commitments vis-à-vis the community of States and to prepare itself accordingly.

It is recommended that efforts be made to promote all international humanitarian law treaties and that all States party thereto should actively support such efforts.

Finally, note should be taken of the important task assigned to the International Fact-Finding Commission set up in accordance with Article 90 of 1977 Additional Protocol I.¹ As recognition of the general competence of this Commission requires a formal declaration of acceptance, it is essential that all the States should make such a declaration and communicate it to the depositary State, either on ratifying or acceding to the Protocol or at a later date. The Commission will not be able to play an active role unless it is widely recognized. However, only 34 States have hitherto made the aforesaid declaration.

States which ratify or accede to 1977 Additional Protocol I are invited to make the declaration provided for in Article 90 thereof, as are those States which did not make the said declaration when they became party to this instrument.

¹ Suggestions with regard to this Commission are made below (see under heading 4.1).

2.2 Adoption in peacetime of national implementation measures

The virtually universal acceptance of the Geneva Conventions of 1949 and the fact that a large number of States are party to their 1977 Additional Protocols are not enough to guarantee the effective application of these treaties, owing to the inadequacy of laws and other measures adopted by States at national level to implement them.

Certain crucial obligations undertaken by States may well remain a dead letter if the necessary legislative and practical measures are not adopted, for it is by adopting such measures, in particular, that States demonstrate their genuine intention to fulfil their commitments.

Concern for this situation has prompted the international community to encourage the ICRC on various occasions to promote the adoption of such laws and measures. The ICRC accordingly followed up previous steps to that effect by writing to the States party to the Geneva Conventions of 1949 to request information with regard to the measures they had taken or were planning to take, at national level, to ensure that international humanitarian law was effectively applied.² These written representations, some of which were made in conjunction with the National Red Cross or Red Crescent Societies, also request ideas as to mechanisms that could be used more effectively to help States fulfil their obligations.

On the basis of reactions to date — about one third of the States party to the Geneva Conventions have replied to the written enquiry — certain domains of international humanitarian law are considered to be of greatest importance, in particular the repression of grave breaches, the protection of the red cross or red crescent emblem, and dissemination of international humanitarian law. National measures have also been adopted in other areas such as the definition of protected persons, safeguards for humane treatment, the protection of medical units and staff, the disciplinary system within the armed forces ensuring respect for international humanitarian law, and the

² These written representations, the most recent of which were made in 1988, were based in particular on Resolution V of the 25th International Conference of the Red Cross (Geneva, 1986) entitled *National measures to implement international humanitarian law*, and on various initiatives taken in this field such as the work carried out by Professor Michael Bothe and the seminar organized by him, an account of which is published in *National Implementation of International Humanitarian Law. Proceedings of an International Colloquium held at Bad Homburg, 17-19 June 1988*, edited by Bothe, M., Nijhoff, 1990, 286 pp.

training of legal advisers in these forces. The replies also indicated that although most States generally welcomed assistance in this field, they were not in favour of more compulsory systems or systems that might imply monitoring of the measures adopted.³

The ICRC intends to continue collecting information in order to identify the most appropriate means of helping States to fulfil their obligations.

In addition to these written enquiries, the need to take national measures was emphasized to States during numerous contacts taken up both at national level and at regional meetings where an exchange of views on measures taken and current experience took place.⁴

Consequently much still remains to be done and the International Conference for the Protection of War Victims should serve as an opportunity for States to review this particular subject.

Signs of a desire for progress could be given, for example, by setting up or activating inter-ministerial commissions, or by designating an office or person responsible for keeping track of or coordinating measures to be taken at national level.

2.3 Spreading knowledge of international humanitarian law

The dissemination of knowledge of international humanitarian law must begin in peacetime, for there is no chance of it being applied unless it is known by those whose duty it is to comply and ensure compliance with it. The importance of such work was recognized at the outset of modern international humanitarian law.⁵ It was accord-

³ The information received was reproduced in an Annex entitled *Replies received from States to the ICRC's written representations concerning national measures to implement international humanitarian law* to the ICRC Report: *Implementation of international humanitarian law. National Measures* (document Doc.C.1/4.1/1). To supplement these replies, a list of legislative texts or regulations received by the ICRC has also been drawn up as a reference document for all those working on the subject, and can be obtained from ICRC headquarters.

⁴ The following regional meetings have been organized to date: Sofia, 20-22 September 1990, for Europe; San José, Costa Rica, 18-21 June 1991, for Latin America; and Yaounde, 23-27 November 1992, for French-speaking Africa.

⁵ As early as 1869 the final Resolution of the Second International Conference of the Red Cross, held in Berlin, stipulated that "*knowledge of the articles of the Geneva Convention must be disseminated as widely as possible, particularly among soldiers*".

ingly included as an obligation in the Geneva Conventions of 1949 and their Additional Protocols of 1977.⁶

The international community has furthermore mandated the ICRC to participate in this effort.⁷ It performs this task with the particular support of the National Red Cross and Red Crescent Societies and their Federation.

Activities to disseminate international humanitarian law have indisputably been considerably intensified over the past fifteen years.

Since 1976, over 1,000 senior officers from 118 countries have followed the Centralized International Military Courses on the Law of Armed Conflicts organized by the International Institute of Humanitarian Law in San Remo.

For its part, the ICRC has set up a structure specially for dissemination and has been able to raise the level of awareness of international humanitarian law in various parts of the world through its network of regional delegations and with the support of the National Red Cross or Red Crescent Societies and their Federation. Thousands of seminars, courses, and exhibitions have been organized at both national and regional level for such diverse audiences as soldiers and officers, and political and academic circles. The ICRC has also produced or helped to produce a significant range of teaching materials, adapted to various cultures. It has a list of over one thousand publications, many of them available in a large number of languages. Care has been taken to ensure that materials are suited to the level of education concerned: children are not approached in the same way as academics, or soldiers in the same way as senior officers.

Between 1988 and 1991 the International Red Cross and Red Crescent Movement as a whole led a World Campaign for the Protection of Victims of War which increased the awareness of the public and of governments throughout the world.

However, although a number of States have realized the importance of disseminating international humanitarian law and have begun to make the necessary arrangements, the results are still far from satisfactory.

⁶ See the article common to the four Geneva Conventions (Articles 47 - 48 - 127 - 144 respectively), Article 83 of Protocol I and Article 19 of Protocol II. See also *Résolution 21* adopted at the fourth session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law (1974-1977).

⁷ See Article 5, paragraph 2 (c) and (g) of the Statutes of the International Red Cross and Red Crescent Movement.

The ignorance of humanitarian rules shown by members of the armed forces or armed groups in certain recent conflicts, or their disregard for those rules, should induce every State to consider what precautions it is taking to avoid such excesses. The International Conference for the Protection of War Victims should serve as an opportunity to examine this question seriously and without complacency.

Three subjects have been singled out here for closer consideration, namely the coordination of efforts to spread knowledge of international humanitarian law with other efforts of a similar nature, training for the armed forces, and the role of the media.

2.3.1 The coordination of efforts to spread knowledge of international humanitarian law with other educational activities aimed at preventing conflicts

It is imperative to begin spreading knowledge of the principles and basic rules of international humanitarian law in time of peace and, *at national level*, to have a well thought-out programme of instruction to do so. The work carried out among *young people* in particular should pave the way for specific courses in universities and for instruction within the armed forces.

It is only logical that the work undertaken to spread knowledge of international humanitarian law, with the aim of preventing excesses in armed conflicts, should go hand in hand with educational efforts to prevent the conflicts themselves.

In this context, dissemination of the *principles contained in the Charter of the United Nations* and education in *human rights* come particularly to mind. It is indispensable that greater attention be given to these domains, placing special emphasis on young people and on harmonization of such work with activities to spread knowledge of international humanitarian law. How can we talk about the eventuality of armed conflicts without simultaneously saying that the international community nowadays rejects this means of settling differences? Should we not point out that strict respect for human rights is the best way of avoiding armed conflicts? Should there not be a special effort to explain that human rights and international humanitarian law are complementary and not mutually contradictory?

In other aspects of prevention, the International Red Cross and Red Crescent Movement can play a role, though a more modest one.⁸

States should be helped in such work mainly by intergovernmental institutions, in particular UNESCO, or non-governmental organizations.

Encouragement should be given to exchanges of information on initiatives taken either by the States themselves or by governmental and non-governmental organizations to teach and otherwise spread knowledge of the principles of the United Nations Charter, human rights and international humanitarian law. Similarly, there should be a better harmonization of efforts made by schools, universities or elsewhere.

2.3.2 Training for the armed forces

In countries where the armed forces are taught the rules of international humanitarian law, this subject is often a marginal item in military training programmes. However, unless international humanitarian law becomes an integral part of regular combat training and a key constituent of training programmes at all levels in the chain of command, it can hardly be expected to have a favourable impact on the conduct of members of the armed forces in the field. International humanitarian law considerations have already been experimentally included, with success, in the military decision-making process during certain military manoeuvres.

It is essential that instruction in international humanitarian law be made an integral part of military training as a whole. It must be addressed to all levels in the military hierarchy, and senior officers must be directly involved in the planning and implementation of teaching programmes.

With the rapid development of different types of armed conflict, the armed forces are increasingly engaged in operations to maintain or restore law and order. This new role calls for particular attention to the training of the armed forces, in view of the basic differences between

⁸ Note should be taken in this connection of the report entitled *Contribution of the International Red Cross and Red Crescent Movement to respect for human rights* (CD/6/1c), adopted by the Council of Delegates in 1989. A Commission set up by the Movement is currently giving further consideration to the subject. Also of interest is the study now being conducted by the Henry Dunant Institute on the role which the National Red Cross or Red Crescent Societies can play in minority issues, particularly to develop intercommunal activities and reduce tension between ethnic groups.

traditional combat missions and the tasks of maintaining law and order within their own country. In certain cases, special training should also be given to the police.

The ICRC recently organized a meeting of experts on the teaching of international humanitarian law to the armed forces, at which the majority of participants were senior officers from a variety of countries. The meeting concluded that it was important to increase the coordination of activities in this domain at the national, regional and international levels. In particular, regional experience in Asia, Africa and Latin America suggests that greater cooperation could be established between armed forces and, more especially, between people responsible for instruction in international humanitarian law.

The ICRC itself is prepared to organize one or more meetings to give in-depth consideration to the foregoing problems and topics; it is also willing to help mobilize the resources needed to disseminate international humanitarian law among the armed forces and to facilitate the coordination of efforts in this field.

2.3.3 The role of the media

The media have a key part to play during conflicts, as they are then the main means of communicating with the population. Their role consequently merits extensive consideration.

What can the media be expected to do to alert governments and the general public to tragic but forgotten situations? How can they help to spread knowledge of the humanitarian rules both in time of peace and in time of war? What is their duty as regards the denunciation of excesses? How should manipulation of the media for political purposes, and in particular to exacerbate hatred between diverse communities, be avoided? How can they avoid trivializing horror? Where exactly does the independence of the media with regard to the previous questions begin and end?

Although these various subjects have already been considered to some extent, they should be discussed in even greater detail with senior media management and with journalists.

2.4 Explanation and development of international humanitarian law

The Geneva Conventions of 1949 and their 1977 Additional Protocols now provide a sound basis for international humanitarian law and efforts at this stage must be concentrated first and foremost on their implementation.

Some further explanation is necessary, however, in view of the complexity of the texts. The *Commentaries* on the Geneva Conventions and the Additional Protocols have certainly done much to facilitate the interpretation of these instruments. But serious thought should still be given to the transposition of provisions concerning the conduct of hostilities into practical instructions for combatants, notably in the form of military manuals, and especially to the scope of the rules applicable in non-international armed conflicts. Such clarification is also needed for the rules concerning implementation, such as the obligation of States to “ensure respect” for international humanitarian law.⁹

The existing rules moreover constantly have to be updated to keep pace with the steady advance of military and other technologies, in particular the emergence of new weapons and means of identification.

Renewed consideration should likewise be given to subjects only superficially addressed when the Geneva Conventions and their Additional Protocols were drawn up, such as naval warfare or environmental protection.

Lastly, the impact on international humanitarian law of efforts in the fields of disarmament and human rights and their results should be examined.

2.4.1 The humanitarian rules applicable to the conduct of hostilities in non-international armed conflicts

International humanitarian law dealing with non-international armed conflicts is less comprehensive than that for international armed conflicts, particularly the rules applicable to the conduct of hostilities. The humanitarian law rules applicable to non-international armed conflicts are those contained in Article 3 common to the Geneva

⁹ The scope of the obligation to “ensure respect” for international humanitarian law is examined below, under heading 3.1.2.

Conventions of 1949 and in Additional Protocol II of 1977. Article 3 affords basic protection to any person who is not or is no longer participating in hostilities. Its provisions are recognized as having the value of customary norms. However, Article 3 does not contain any rule which specifically governs the conduct of hostilities.

This is not the case with Additional Protocol II, in which the whole of Part IV is devoted to rules on the conduct of hostilities. Expressly prohibited are attacks on the civilian population; starvation of the civilian population; attacks on objects indispensable to the survival of the civilian population; and orders to displace the civilian population, other than for the security of the persons displaced or for imperative military reasons.¹⁰

However, these humanitarian law rules do not formally apply unless the State in question is party to Protocol II and the threshold of intensity required for its application has been reached. Thus in other situations it is essentially international customary law which determines the rules of international humanitarian law that the belligerents must observe in military operations.

In 1989 and 1990, a Round Table organized by the International Institute of Humanitarian Law in San Remo examined the rules of international humanitarian law relating to the conduct of hostilities in non-international armed conflicts.¹¹ In the course of its discussions, five principles or humanitarian rules governing the conduct of hostilities in non-international armed conflict were identified. They are as follows:

- the obligation to distinguish between combatants and civilians, and the ensuing prohibition of indiscriminate attacks;
- the immunity of the civilian population, and the prohibition, in particular, of attacks on the civilian population as such or against civilians;
- the prohibition on causing superfluous injury or unnecessary suffering and, in particular, of the use of means of warfare which unnecessarily aggravate the suffering of the wounded or render their death inevitable;

¹⁰ See Protocol II, Articles 13(2), 14 (first clause), 14 (second clause) and 17 respectively.

¹¹ See *International Review of the Red Cross*, No. 278, September-October 1990, p. 383 ff.

- the prohibition of recourse to perfidy, which forbids killing, wounding or capturing an adversary by abusing his good faith;
- the obligation to respect and protect medical and religious personnel and medical units and means of transport.

The discussions organized by the International Institute of Humanitarian Law also confirmed that the customary rules prohibiting the use of chemical and biological weapons, dumdum bullets and poison are applicable in non-international armed conflicts. The same applies to the protection of dwellings used only by the civilian population, the protection of objects indispensable for the survival of the civilian population, and the duty, in an attack, to take all feasible precautions to avoid causing injury, loss or damage to the civilian population. It was further pointed out that the general rules and principles applicable in non-international armed conflicts also govern any use of mines, booby-traps and similar devices, and incendiary weapons.

This clarification is important for military authorities who must be absolutely clear about the rules they are required to follow. Moreover, military training with regard to the application of these rules should not, in principle, depend on the legal nature of a conflict. Finally, it is untenable to allow the use against one's own population, in an internal conflict, of methods and means of warfare which are forbidden in international armed conflict.

Besides urging ratification of 1977 Additional Protocol II, the International Conference for the Protection of War Victims should:

- *encourage continued and intensified dialogue with the armed forces to bring about a consensus on the humanitarian rules applicable to the conduct of hostilities in non-international armed conflicts, a consensus given tangible form in military manuals and instruction;*
- *express its desire for future examination of the possibility of formally extending to non-international armed conflicts the applicability of international humanitarian law treaties, such as the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons, which at present apply only to international conflicts.*

2.4.2 International humanitarian law and the protection of the environment

The protection of the environment in times of armed conflict is an issue which became abruptly and tragically acute during recent conflicts.

Those events have prompted many people to look into the content of international humanitarian law with regard to environmental protection in times of armed conflict, as well as its limitations and possible shortcomings. Several conferences have been held to discuss the subject.

Such meetings have been timely, for the environment is indeed seriously threatened by the emergence of highly devastating forms of combat and the way in which certain hostilities have been conducted.

The subject of protection of the environment in times of conflict is not entirely new, but has on the contrary been addressed by the international community since the early 1970s. Several legal rules have accordingly been adopted with the aim of restricting environmental damage.¹²

These provisions, together with certain fundamental principles of international humanitarian law and a number of treaty-based or customary rules, undoubtedly constitute a sound basis for the protection of the environment in times of armed conflict. They must be taken into careful account in any re-evaluation of international law relating to such protection.

The ICRC is directly concerned by this question, which comes within the ambit of international humanitarian law. At the request of the United Nations General Assembly, it therefore organized three meetings of experts to study the content and the limits of the relevant legal rules in order to identify possible gaps in the existing legislation.

More than forty experts of governments, governmental and non-governmental organizations and military, scientific and academic circles accepted the ICRC's invitation.

During the meetings, a list of the main questions calling for study and discussion was drawn up. They include in particular the role and scope of customary rules for the protection of the environment, the interpretation to be given to the existing treaty rules, the applicability

¹² Those rules are contained for the most part in Additional Protocol I of 1977, Articles 35(3) and 55, and in the Convention on the Prohibition of Military or any Other Hostile Environmental Modification Techniques, which was adopted under the auspices of the United Nations in 1976.

in times of war of the provisions of international environmental law, the content of the law applicable in non-international armed conflict and the problems involved in ensuring that these rules are applied and respected.

These meetings led to various conclusions. In particular, it emerged that if the existing regulations were universally and scrupulously respected, damage to the environment in times of armed conflict could be considerably limited. Intensive efforts are required, therefore, to ensure that these rules are adopted by as many States as possible and are known by all concerned. In addition, certain measures specifically designed for the implementation of international humanitarian law could help to bring about greater respect for the existing rules. Finally, other new issues and suggestions, such as the creation of protected zones, should be set out in greater detail so that the possibility of putting them into effect can be seriously examined.

The ICRC will submit its conclusions on the outcome of this work to the 48th Session of the United Nations General Assembly.¹³

The participants in the International Conference for the Protection of War Victims are invited to pay all due attention to the ICRC report on the protection of the environment in times of armed conflict and to give careful consideration, within the framework of the General Assembly, to the appropriate follow-up.

2.4.3 International humanitarian law and modern weapons technology

In this era of rapidly advancing technology, the development of new weapons is an important issue that calls for international attention and careful scrutiny. International humanitarian law prohibits the use of excessively cruel and indiscriminate weapons, and it obliges the States to determine whether or not a new weapon or method of warfare would violate that rule.¹⁴

¹³ An account of the preliminary findings of the first of these meetings was given by the ICRC during the United Nations Conference on the Environment and Development (Rio de Janeiro, June 1992). They were subsequently the subject of an interim report examined at the 47th Session of the United Nations General Assembly. In Resolution 47/37 of 25 November 1992, the General Assembly invited the ICRC to continue this work and to draw up a final report for the 48th Session.

¹⁴ See Arts. 35 and 36 of Additional Protocol I of 1977.

Although some new developments in weaponry may be seen as constituting an improvement, in that they increase accuracy or provide protection, others may add to the suffering brought about by war. Concern about new weapons should not be limited to those of mass destruction; the States should also consider whether new weapons cause superfluous injury or excessively cruel suffering. One forgets all too often that soldiers have rights, too, and that there are restrictions to the means which can be employed against them. Allowing the development of some excessively cruel weapons to go unregulated will undermine the rule prohibiting superfluous injury and will make it increasingly difficult to ban the use of new weapons causing such injury.

Moreover, experience has shown that once the use of such weapons has become commonplace, the civilian toll is high. It is also easier to monitor the application of a rule banning the use of a weapon than of one limiting its use.

These points were all highlighted in the meetings of experts recently convened by the ICRC on *weapons that blind and on landmines*.¹⁵

Several States had expressed concern at the prospect of the development of blinding weapons at the 1986 International Conference of the Red Cross. The ICRC was made aware of the problem by the publication in specialized journals of reports that prototypes of such weapons already existed. This is not the place for a detailed discussion of a very complex issue; suffice it to say that the principal matter to be addressed is whether intentionally blinding someone is tantamount to inflicting an excessively cruel injury. The particularly tragic psychological and social implications of blindness prompted the majority of the experts to conclude that rules should be drafted with a view to preventing intentional blinding from being recognized as a permissible method of warfare; in fact, many of them thought that intentional blinding constituted a violation of the existing provisions of international humanitarian law.

The widespread use of anti-personnel mines has rendered vast areas of land unusable and resulted in the death and maiming of countless civilians, long after the guns have fallen silent. The symposium

¹⁵ See the reports published by the ICRC, in particular *Reaffirmation and Development of International Humanitarian Law. Prohibitions or Restrictions on the Use of Certain Weapons and Methods in Armed Conflicts. Developments in relation to Certain Conventional Weapons and New Weapons Technologies* (C.I/6.3.2/1, Geneva 1991) and *Report on Landmines*, Montreux 21-23 April 1993, Media Natura, London.

sium convened on this topic recognized that the main problem is that landmines are used indiscriminately, a problem exacerbated by modern methods of laying them. Under present international humanitarian law, no one is responsible for clearing mines or caring for the innocent victims of mine-blast injuries. The majority of the experts felt that the most effective solution would be to ban the use of anti-personnel landmines. An in-depth study needs to be made, however, of the military importance of these weapons and of the effectiveness of less far-reaching solutions, such as a ban on mines without self-destruct or self-neutralizing mechanisms and those which are undetectable.

The first step for most States is to ratify or accede to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons and its Protocol II. Now would be a particularly appropriate time to do so, given that the problem of mines will be discussed at the review Conference on the 1980 Convention which may be held as early as 1994.

It is essential that this Conference be properly prepared so that any amendments agreed to are truly effective. In this respect, the ICRC stands ready to undertake the necessary preparatory work, as it did for the 1980 Conference, in particular by organizing meetings of experts. It will make available to the Conference, and to any preparatory meeting, the material already put together, in particular by its surgical teams in the field and in the framework of expert meetings.

2.4.4 International humanitarian law applicable to war at sea

Apart from several minor points, international humanitarian law applicable to war at sea was not revised or developed at the 1974-1977 Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law. However, recent conflicts have shown that certain aspects of this law need to be reviewed.

Work to that effect has begun under the auspices of the International Institute of Humanitarian Law in San Remo and the problems involved have been examined from humanitarian, technical, legal and military angles.

This work is scheduled for completion in 1994 and the report summarizing its findings should then be given serious consideration by governments.

2.4.5 Marking and identification of persons and property protected under international humanitarian law

The marking of medical units and establishments has always been an essential feature of the system of protection first laid down in the original Geneva Convention of 1864.

It is therefore crucial, already in peacetime, to prevent and punish misuse of the red cross and red crescent emblem and to spread knowledge of its meaning as broadly as possible.

Today it is also necessary to use, in addition to the original emblems, modern visual, radio and electronic means of identification. In order to ensure that the means employed keep pace with technological progress, a provision was included in Protocol I of 1977 for the independent and regular review of its Annex I, in which the recognized signals are defined.

A review is currently nearing completion and the revised Annex is due to come into force on 21 January 1994.

All the States party to Protocol I, but also those which have not yet acceded to it, are invited to take the necessary steps to introduce, at the national level, the measures mentioned in the revised Annex.

The growing number of humanitarian organizations and the lack of a clear definition of their respective roles has further complicated the problem of marking and identification. As a result the protective emblems are not always used strictly as provided for under international humanitarian law, but are unlawfully displayed by persons not entitled to use them. In addition other emblems are used to protect the humanitarian activities of the United Nations agencies and various non-governmental organizations.

Although it is not necessary at this stage to enter into the details of this sensitive issue, it is important to stress that careful attention should be paid to all developments in this respect, and that these should follow, instead of precede, a global reflection on emergency humanitarian operations, coordination, the definition of tasks and security problems.

2.4.6 Relationship between international humanitarian law and disarmament

The recent efforts undertaken to develop international humanitarian law are quite distinct from those carried out in the field of disarmament.

ment. This stands to reason since disarmament touches on political problems that extend far beyond the framework of international humanitarian law. Whereas the latter deals with the prohibition or restriction of the use in armed conflicts of certain indiscriminate or particularly cruel weapons, the debate on disarmament centres on the geo-strategic balance determined by the possession of certain weapons, especially those of mass destruction (nuclear, biological and chemical). Monitoring takes on considerable importance in the field of disarmament since the security of States depends on obtaining the guarantee that all parties will respect their commitments.

Nevertheless a measure of complementarity does exist, in at least two areas, between the efforts undertaken, respectively, in the field of disarmament and that of international humanitarian law.

The prohibition of the *use* in armed conflicts of a particular weapon is far more effective wherever it is accompanied by a prohibition to *manufacture* and *possess* it. The latter prohibition also removes the ambiguity which sometimes exists as to the possible legitimacy of the use in non-international armed conflicts of weapons that are prohibited in international armed conflicts.

In this sense the Chemical Weapons Convention which was recently adopted in the framework of disarmament efforts is an important addition to the prohibition of the use in warfare of such weapons already contained in the Geneva Protocol of 17 June 1925. Along the same lines, the above-mentioned symposium on mines noted that the effectiveness of measures prohibiting the use of such devices depends to a large extent on complementary measures taken in the field of disarmament with respect to the manufacture and sale of such weapons.

This brings us to the second area of complementarity between the fields of international humanitarian law and disarmament.

Many recent conflicts have served to demonstrate that respect for humanitarian norms as a whole is jeopardized by the large-scale supply of weapons to small groups of all political tendencies and even to mere bandits.

The uncontrolled inflow of weapons is undoubtedly first and foremost to be regarded as an additional cause of tension leading to armed conflicts. However, the efforts undertaken within the framework of disarmament to restrict the *arms trade* are also essential in order to maintain, wherever armed conflict is unavoidable, a measure of control over the use of armed force. This control is a basic concept of international humanitarian law.

In this respect the study currently being carried out by the Conference on Disarmament with a view to compiling a register of certain weapons could, even if it does not include mines at this stage, have a considerable bearing on the protection of war victims.

The International Conference for the Protection of War Victims is invited to encourage the Conference on Disarmament and all States to pursue and develop efforts undertaken to restrict the arms trade and to consider measures to be taken, in the framework of disarmament, with respect to weapons whose use is prohibited or restricted under international humanitarian law.

2.4.7 Relationship between international humanitarian law and human rights

As the XXIII Resolution adopted at the International Conference on Human Rights (Tehran, 1968) expressed it, “*peace is the underlying condition for the full observance of human rights and war is their negation*”.

This does not mean, however, that human rights cease to be applicable during armed conflicts. But major derogations from those rights are nevertheless allowed.

International humanitarian law, on the other hand, has been devised specifically for armed conflict. No derogation may be made from it on account of there being an armed conflict since such a situation is the very reason for its application in the first place.

However, there are several reasons why it would not be possible to substitute international humanitarian law for human rights law in wartime.

Firstly, the personal field of application of international humanitarian law is not exactly the same as that of human rights law. To be sure, humanitarian law has seen its field of application considerably enlarged as the effects of warfare have become more numerous. The civilian population, for example, is today protected under foreign military occupation as well as in the event of enemy attack. But humanitarian law does not protect all persons on the territory of a belligerent country against excesses committed by the authorities governing them. In particular, guarantees laid down for persons deprived of their freedom cover only those imprisoned for acts or reasons “*related to*

the armed conflict".¹⁶ Even in wartime, therefore, persons imprisoned for penal law offences are, generally speaking, protected only by human rights law.

The difference between the material fields of application of these two bodies of law is a second argument against substituting humanitarian law for human rights law during armed conflict.

It is true that the non-derogable rights cited in Article 4 of the International Covenant on Civil and Political Rights largely correspond to rights also guaranteed by international humanitarian law. However, they are not exactly the same.¹⁷ Moreover, the rights from which it is not prohibited to derogate are not abolished in wartime.

In the event of war or another emergency "*which threatens the life of the nation*", the States may take measures affecting these other rights (some of which have nothing to do with international humanitarian law) only "*to the extent strictly required by the exigencies of the situation*". In addition, the rights guaranteed by the International Covenant on Economic, Social and Cultural Rights continue to be applicable in their totality during armed conflicts, though it is inevitable that they will be seriously affected by such a situation.

Finally, there is a third reason why the two distinct bodies of law must be maintained in the event of armed conflict: the means by which they are implemented are complementary.

Whereas humanitarian law emphasizes active verification on the spot, human rights law, while not excluding such verification in certain instruments, favours the periodic drawing up of reports which lead to discussion and recommendations being made.

In conclusion, it should be stressed that human rights law and international humanitarian law are complementary. It is important that those responsible for their implementation should coordinate their activities in order to ensure that rights are duly respected during armed conflict.

Useful work has been initiated to clarify the minimal humanitarian norms which must be observed in the event of internal disturbances and tensions, in situations not covered by international humanitarian

¹⁶ See Article 75 of Additional Protocol I (1977) and Article 4 and 5 of Additional Protocol II (1977).

¹⁷ The prohibition on imprisoning someone merely on the grounds of inability to fulfil a contractual obligation, as laid down in Article 11 of the International Covenant on Civil and Political Rights, is included in the list of non-derogable rights set out in Article 4. This is an example of a provision totally foreign to international humanitarian law.

law and in which it is permissible to derogate from certain human rights.¹⁸

The ICRC recommends that the International Conference for the Protection of War Victims encourage the work undertaken to clarify and strengthen the rules of international law applicable to internal disturbances and tensions.

3. Action taken despite all adversity

It has been pointed out that the proliferation of armed conflicts and the course they are taking are threatening humanitarian values, and that everything must be done to protect those values.

Means of controlling the present crisis will now be considered, bearing in mind that today's victims can on no account be abandoned.

Three interrelated issues call for particular attention here: the action to be taken to ensure respect for international humanitarian law; the coordination of humanitarian action; and the safety of those engaged in humanitarian work.

3.1 Action to be taken to ensure respect for international humanitarian law

In many recent armed conflicts, the difficulties encountered in applying international humanitarian law have been so great that even its underlying philosophy has been called into question.

International humanitarian law is based on the principle that parties who can find no other way of settling their differences other than by the use of force will agree to observe certain humanitarian principles during the conflict, irrespective of the merits of the cause being defended.

This approach is to the benefit of all the victims of armed conflict. It is therefore in the humanitarian interest of each of the parties to the

¹⁸ The results of the work undertaken by a group of experts which adopted a Declaration concerning this subject (meeting held at Turku/Abo, Finland, 30 November-2 December 1990) have been introduced into the Sub-Commission of the Commission on Human Rights as a working paper. Document E/CN.4/Sub 2/1992/55 of 12 August 1991. See also "New Draft Declaration of Minimum Humanitarian Standards", *International Review of the Red Cross*, No. 282, May-June 1991, pp. 328-336.

conflict and does not place them at a political or military disadvantage, since respect for international humanitarian law does not have a significant effect on the military outcome of the conflict.

For this system to work, a number of conditions must be fulfilled. Many of them have been cited in the "Prevention" section of the present document.

The crucial question arising from recent armed conflicts is how the international community should react when the parties to a conflict are unwilling to respect the principles and rules of international humanitarian law, or are incapable of ensuring respect for them.

The International Conference for the Protection of War Victims provides an opportunity to clarify this question.

3.1.1 Is there still a place for international humanitarian law within the international system?

In a long-term assessment it might seem that international humanitarian law will not retain its present importance. The end of the Cold War restored hope of a world at peace based on the universally recognized values laid down in international law and guaranteed by the United Nations, which would itself be backed by an international court whose mandatory authority in international disputes would be recognized by every State, and by armed forces capable of imposing the decisions of such a tribunal. National armed forces would be progressively reduced to the minimum necessary for ensuring internal order.

In the system established by the Charter, as originally conceived and briefly described above, there would no longer be a place for armed conflicts and consequently for international humanitarian law, or for the principle that emergency humanitarian aid should be neutral and independent. This was clear to the International Law Commission at the outset of its deliberations.¹⁹

Moreover, although the climate of the Cold War at first prevented all necessary arrangements from being made for the system to work well, it is now felt, as expressed recently by the United Nations Secre-

¹⁹ The International Law Commission remarked as follows: "war having been outlawed, the regulation of its conduct had ceased to be relevant ... if the Commission, at the very beginning of its work, were to undertake this study, public opinion might interpret its action as showing a lack of confidence in the efficiency of the means at the disposal of the United Nations for maintaining peace", *Yearbook of the International Law Commission*, 1949, p. 281.

tary-General, that “...an opportunity has been regained to achieve the great objectives of the Charter”.²⁰

It cannot, however, be ignored that the aforesaid objectives are still far from being achieved: the mandatory authority of the International Court of Justice is not recognized by all States, the States themselves still possess powerful armed forces and the United Nations does not have the resources to maintain or, if necessary, restore, an international order devoid of armed conflict and based on international law.

The essential role of the United Nations nonetheless remains the maintenance of peace and the search for a solution to these conflicts. To end them, it must take measures tantamount to a political commitment. Such a commitment, however, carries the risk that one or other of the parties, or even all of them, may reject the United Nations.

International humanitarian law and the neutrality and independence of humanitarian emergency aid consequently retain all their present significance, and the real difficulties encountered in applying this law cannot possibly be resolved by questioning the principles on which it is based.

3.1.2 The obligation of the States to “ensure respect” for international humanitarian law

When large-scale violations of international humanitarian law occur, the first response must be a redoubling of efforts to make it operative, whatever the difficulties involved.

For this purpose, it is essential to speak with the parties to a conflict in order to obtain their commitment to respect their obligations under international humanitarian law, and to find practical solutions to urgent problems such as access to populations in need or to defenceless prisoners. It is here that the ICRC’s role as a specifically neutral and independent intermediary assumes its full significance. The use of instruments provided by international humanitarian law for its own implementation, in particular, the designation of Protecting Powers or recourse to the International Fact-Finding Commission, must also be encouraged.

This indispensable dialogue is no longer sufficient, however, if grave breaches of international humanitarian law nonetheless persist.

²⁰ Report by the Secretary-General entitled: *Agenda for Peace*, Document A/47/277 S/24111, of 17 June 1992.

Belligerents are accountable for their acts to the entire international community, as the States party to the Geneva Conventions have undertaken to “*respect and to ensure respect*” for the present Conventions “*in all circumstances*”.²¹

According to the terms of this provision, all the States party to the Geneva Conventions are under the obligation to act, individually or collectively, to restore respect for international humanitarian law in situations where parties to a conflict deliberately violate certain of its provisions or are unable to ensure respect for it.

Lastly, there are situations in which total or partial failure must be admitted, despite all efforts to ensure application of international humanitarian law. While these must certainly be maintained, violations are of such magnitude that their very continuation would represent an additional threat to peace within the meaning of Article 39 of the United Nations Charter.

It is then the responsibility of the United Nations Security Council to make such an assessment and recommend or decide on what measures are to be taken in accordance with Articles 41 and 42 of the Charter.

These measures differ from those provided for by the Geneva Conventions in that the use of force as a last resort is not excluded, and their purpose is not essentially to ensure respect for international humanitarian law but to tackle a situation which is threatening peace.

3.1.3 Action taken to “ensure respect” for international humanitarian law

A large range of options are possible within the framework of *Article 1 common to the Geneva Conventions* and Article 1 of Additional Protocol I. Among these are: diplomatic approaches of a confidential, public, individual or collective nature; encouragement to use the means of implementation provided for in international humanitarian law, such as the designation of Protecting Powers and recourse to the International Fact-Finding Commission; and offers of good offices. It should be noted, moreover, that the limits imposed on such action are those of general international law, and that international

²¹ Laid down in Article 1 common to the Geneva Conventions, this obligation reads as follows: “*The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances*”. It is reiterated in similar terms in Article 1, paragraph 1, of Additional Protocol I of 1977.

humanitarian law could not possibly provide a State not involved in the conflict with a pretext for intervening militarily or for deploying forceful measures outside the framework provided for by the United Nations Charter.

Article 89 of Additional Protocol I moreover stipulates that the obligation to act in situations of serious violations of international humanitarian law, either jointly or individually, must be carried out in cooperation with the United Nations.²² The manner of this cooperation, however, has yet to be defined.

The steps taken to ensure respect for international humanitarian law have a direct effect on the work of organizations such as the ICRC. Their aim may even be to enable or facilitate the work of such organizations.

Conversely, the measures decided upon and recommendations made by the Security Council under Chapter VII of the Charter cannot be considered *neutral* within the meaning of international humanitarian law, even though their ultimate objective may in some cases include the aim of putting an end to violations of that law. The use of armed force is thereby not excluded. Should such force be used, it will itself be subject to the relevant provisions of international humanitarian law.

It follows that a humanitarian organization such as the ICRC cannot be involved in the execution of such measures. It is vital for the ICRC to retain its complete independence and with it the possibility to act as a neutral intermediary, between all the Parties to a conflict, including any armed forces deployed or authorized by the United Nations.

Independent humanitarian organizations must nonetheless take into account the new situations created by measures adopted by the Security Council and examine with those carrying them out and with all the parties concerned the way in which they can play their traditional role within this context such as care of the wounded, visits to and protection of detainees, transport and distribution of aid to vulnerable persons, transmission of family messages and the reuniting of families.

As for the implementation of humanitarian measures stemming from decisions taken by the Security Council within its mandate to maintain or restore peace, the role of the subsidiary bodies or specialized agencies of the United Nations, and even that of the peace-

²² This Article should also be read in the light of Articles 1 (3), 55 (c) and 56 of the United Nations Charter, which specify the UN commitment to human rights.

keeping forces themselves, give rise to questions which require further consideration first and foremost within the United Nations itself.

To sum up, it is important to mark a clear distinction between action taken to facilitate the application of international humanitarian law (which is primarily based on the consent of the Parties to conflict), and action (which does not exclude coercion) to maintain or restore peace. Recent practice should be analysed in this respect: apart from the undeniable merit of certain action, the stress placed in peace-keeping or peace-making operations upon activities with purely humanitarian objectives threatens to create a certain confusion which may ultimately prove harmful to humanitarian work and to the objective of restoring peace. It should be noted, moreover, that although attention has been drawn several times, in specific situations, to the obligation to ensure respect for international humanitarian law, the action taken on this basis has not been a conclusive indication of customary practice.

Consequently, consideration must be given to a suitable framework for holding a regular multilateral and structured dialogue to address problems encountered in the application of international humanitarian law, bearing in mind the role that the International Conferences of the Red Cross and Red Crescent can play in this respect.

Consultation is therefore still necessary to determine the most appropriate methods and framework for implementation of the States' obligation to ensure respect for international humanitarian law, as well as the type of cooperation to be established with the United Nations in the event of serious violations of that law. Further consideration should also be given to the most suitable framework in which a structured multilateral discussion of specific difficulties encountered in its application could take place at regular intervals. The ICRC intends to hold talks on these subjects with government and United Nations experts in 1994.

3.2 Coordination of humanitarian action

In its desire to contribute more effectively to the growing needs of the victims of armed conflicts and natural disasters, the United Nations has recently established coordinating mechanisms.

Adopted by consensus on 19 December 1991 after several work sessions, General Assembly resolution 46/182²³ envisages a series of measures for the improved coordination of humanitarian aid. The most important of these are:

- the appointment of a humanitarian coordinator directly responsible to the Secretary-General;
- the creation of a rotating and automatically renewable fund at the disposal of the specialized agencies during the first phase of an emergency;
- the creation of a permanent inter-agency consultative committee for the coordination of humanitarian aid.

Inter-agency coordination should help to avoid the overlapping or absence of action in particular situations or areas, thanks to a distribution of tasks according to the respective mandates of the different organizations. It should certainly be continued and further improved, for the magnitude of needs requires combined efforts to overcome them.

At this stage, however, it must be conceded that this dialogue aimed at a distribution of tasks has not yet enabled emergency action in the theatres of operations to be deployed on the scale and at the speed required. The ICRC itself stood alone for too long — despite the support it received from the National Red Cross or Red Crescent Societies and their Federation and the courageous work of certain non-governmental organizations — in a number of theatres of operation where additional assistance by other agencies would have been necessary. Apart from the quantitative aspect, such assistance would moreover have enabled the specific abilities of each organization to be turned to the best possible account to meet the victims' various needs.

The above-mentioned resolution 46/282 certainly provides for early-warning systems. In addition, programmes for *disaster preparedness*, such as those of the National Red Cross or Red Crescent Societies under the aegis of their Federation, deserve to be encouraged.

However, the needs are so great that the basic problem now resides in the inability of the international community to react to those needs when they are identified. Given that there is a primary duty to provide aid on the spot and in good time in the face of atrocities committed against whole populations, to do so is also more economical and effec-

²³ Entitled "Strengthening of the coordination of humanitarian emergency assistance of the United Nations".

tive than to render aid belatedly or to have to receive hundreds of thousands of refugees and displaced persons.

Besides the need for a coordination of tasks, a *concerted approach* is extremely important to improve the effectiveness and quality of emergency humanitarian action. The political, logistic and socio-cultural difficulties that had to be overcome before emergency aid could be completely effective have for too long been underestimated. Action taken without respect for certain ethical principles may well be ineffective, or do more harm than good. Moreover, it enables the authorities to deny the humanitarian organizations which respect those principles the guarantees which the latter are duty-bound to demand as regards the destination of aid and the monitoring of its distribution.

For this reason, it is important for the International Conference for the Protection of War Victims to encourage the work of the International Red Cross and Red Crescent Movement, in consultation with various non-governmental organizations, so as to draw up a code of conduct for organizations engaged in emergency aid.

It is also essential to ensure that the transition from the emergency phase to that of reconstruction and development takes place smoothly, for this decreases or minimizes the dependence of those receiving aid, as well as limiting the duration of relief undertaken by organizations set up specifically for emergency work.

3.3 The safety of those engaged in humanitarian action

It is particularly tragic when women and men who have come to the aid of victims of an armed conflict are killed or seriously injured. It is all the more intolerable when this is a result of deliberately perpetrated acts.

Humanitarian action is dangerous nowadays and the terrible dilemma facing humanitarian organizations is to decide how far their representatives can be put at risk in order to supply women, children, prisoners, sometimes entire populations with food and medicines or other goods essential for their survival; to provide them with some measure of protection; and to give them comfort and support.

The danger is ever-present and each incident must be analysed and evaluated. Was it an accident? Was it due to the general climate of insecurity? Was it perpetrated by the armed forces or armed groups?

Did it arise from the disobedience of a soldier? Did it reflect the unacknowledged desire of the authorities to hinder humanitarian action?

The measures that have to be taken will depend on the reply to these questions; and they might sometimes be more severe than those working in the field would wish.

Confronted by this problem, humanitarian organizations must be stringent and clear-sighted in setting limits to their operations, for there are degrees of risk beyond which they cannot and should not go.

The particular problem of armed escorts has arisen in this connection in certain recent situations. The use of such escorts is obviously regrettable in that, according to international humanitarian law, the emblem of the red cross or red crescent should be sufficient protection for those who have come to help.

However, international humanitarian law itself does not exclude the arming of medical personnel to protect the convoys for which they are responsible against acts of banditry. Regrettable though they may be, and irrespective of the multiple problems they entail, armed escorts are thus not a means of protection that can immediately be excluded.

An absolute condition for their use by independent humanitarian organizations must be the consent of the relevant party to a conflict or, in situations where the structures of the State are in such disarray that it is difficult to identify the authorities, the absence of formal opposition. It is one thing to protect oneself from banditry with the agreement of the party to a conflict on whose territory the humanitarian operation is taking place, but quite another thing to impose humanitarian convoys by force on a party to a conflict which refuses to grant permission for such convoys.

Obviously, humanitarian organizations have no other weapon than that of persuasion, and cannot themselves envisage imposing convoys by force.

But, as stressed above, an organization such as the ICRC would not be able to participate, not even marginally, in operations imposed by force upon parties to a conflict because they are after all of a military nature even though their aim is humanitarian. An organization which is called upon to act as a neutral intermediary in conflicts must of necessity retain the possibility to give protection and assistance to all the victims, including the potential victims of precisely such an operation.

Lastly, attention must be drawn to the particular problem of spreading knowledge of the humanitarian rules, which has an evident bearing on the safety of humanitarian activity.

It has been mentioned that thorough preparatory instruction in international humanitarian law should be provided in peacetime, but in many of the present conflict situations such prior instruction has not been given, or not sufficiently. The need to save the victims is so imperative that different approaches must be adopted, calling on the media to issue daily reports on how humanitarian work is conducted, its objectives and progress, and relying on the support of whatever political or military structure still exists.

The problems are even more serious in situations where government structures collapse.

In such extreme circumstances, to enable humanitarian action to take place it is indispensable to ensure that its nature and purpose are clearly understood. In view of recent experience, particular attention should now be given to means of getting this message across in such circumstances.

4. Repression and reparation

The States party to the 1949 Geneva Conventions are obliged to suppress all acts contrary to the provisions of those instruments and to repress any grave breaches. A number of these breaches are listed in the four Conventions²⁴ and more are found in 1977 Additional Protocol I.²⁵ All grave breaches are considered as *war crimes*.

Provision must be made in peacetime for the repression of breaches of rules of international humanitarian law; this has a dissuasive effect and therefore constitutes an important preventive measure.

However, the repression of breaches is also considered one of the emergency measures which must be taken in situations where international humanitarian law is violated on a massive scale.²⁶

This part of the report first discusses the role of the International Fact-Finding Commission. Although the Commission is not a court of law, its purpose is to facilitate the repression of breaches committed in situations of armed conflict.

²⁴ See C. I, Art. 50; C. II, Art. 51; C. III, Art. 130 and C. IV, Art. 147.

²⁵ See Protocol I, Arts. 11 and 85.

²⁶ The United Nations Security Council noted in particular, in its resolution 827 of 25 May 1993, that “*in the particular circumstances of the former Yugoslavia the establishment as an ad hoc measure by the Council of an international tribunal and the prosecution of persons responsible for serious violations of international humanitarian law ... would contribute to the restoration and maintenance of peace*”.

The report goes on to examine the necessary penal measures at national and international levels.

4.1 The International Fact-Finding Commission

Additional Protocol I of 1977 introduced an important mechanism for implementing international humanitarian law. Article 90 of the Protocol provides for the establishment of an International Fact-Finding Commission when not less than 20 High Contracting Parties have agreed to accept its competence. This was the case as from 25 June 1991, when the 20 States elected the 15 members of the Commission.

The Commission is a permanent body whose mandate is to enquire into all allegations of grave breaches or other violations of the 1949 Geneva Conventions and of Protocol I, provided that the party alleging the violation and the party against whom the allegation was made have both accepted the Commission's competence. At its first meeting on 12 and 13 March 1992 the Commission expressed its readiness, subject to the agreement of all the parties to the conflict in question, to enquire into other breaches of international humanitarian law, including those committed during *non-international* armed conflicts.

Any party which has made the declaration accepting its competence may apply to the Commission by right and without special agreement concerning breaches alleged to have been committed by any other party having made the same declaration. Any party which has not made the declaration may apply to the Commission on an *ad hoc* basis with the agreement of the other party or parties concerned. The Commission will present a report on the result of its enquiry and, if need be, its recommendations to the parties concerned. It will not report its findings publicly unless requested to do so by all the parties to the conflict.

In its capacity as a permanent and completely independent body, the Commission represents a new and important mechanism for promoting respect for international humanitarian law. Fact-finding in a situation of armed conflict is a means of averting unnecessary dispute and violence. The Commission also affords the belligerents the opportunity to show their willingness to comply with international humanitarian law.

This machinery can prove its effectiveness, however, only if it can function and draw lessons from its experience. For this reason, it is

most important, as mentioned above, for the States which have not yet accepted the competence of the Commission to do so.

Apart from this important formal step, it devolves upon the States to avail themselves of the International Fact-Finding Commission in order to enquire, as soon as possible, into all breaches of international humanitarian law, including those committed in non-international armed conflicts. In this way they can show their commitment to this important mechanism of international humanitarian law, and their desire to shed light on alleged breaches of the law.

It should be pointed out that the role of the Commission is not to pass judgement on States, but to assist them in improving the application of the law.

4.2 Penal sanctions

An important part of international humanitarian law is concerned with the repression of breaches of its rules, given that sanctions are an integral part of every coherent legal system, and that the threat of punishment has a dissuasive effect.

4.2.1 National measures

The war crimes alleged by a party to a conflict almost always involve acts committed by the soldiers of the adverse party. It is therefore useful to point out that the obligation to suppress breaches of international humanitarian law and to repress grave breaches thereof requires the authorities to exercise great vigilance concerning acts committed by members of their own armed forces. As previously mentioned, this implies taking the necessary measures at the national level, especially by introducing these breaches into their penal codes.

In many countries, judges cannot base a judgement directly on international treaty law; the relevant provisions of that law should therefore be incorporated into the national legislation. The introduction of these provisions into the national penal system is indispensable, moreover, since the Geneva Conventions and Additional Protocol I contain no indication of the penalties to be applied to the various breaches.

To be effective during armed conflicts, moreover, repression must be carried out within a context of strict discipline in the conduct of hostilities and of determination throughout the whole military hierarchy. It is the laxity of commanders that turns soldiers into bandits.

The International Conference for the Protection of War Victims is invited to emphasize the duty of military commanders to inform their subordinates of their obligations under international humanitarian law, to do everything to avoid breaches of its rules and, if necessary, to repress or report any breaches committed to the authorities.

4.2.2 International measures

The parties to the Geneva Conventions are obliged to repress grave breaches of international humanitarian law or to hand over the presumed perpetrator of such breaches to a Contracting Party wishing to prosecute, as long as this party can prefer substantial charges in accordance with the principle *aut judicare aut dedere*.

A list of these grave breaches, defined as war crimes, is set forth in the Geneva Conventions and more are enumerated in Additional Protocol I of 1977.

In accordance with the principle of *universal jurisdiction*, the obligation to repress grave breaches is independent of the nationality of the perpetrators and the place where the acts were committed.

Nevertheless, the Geneva Conventions neither envisage nor exclude the establishment of an international tribunal in other instruments.

Any effort towards setting up an international tribunal to repress war crimes more effectively should therefore be welcome, especially as the system provided for under international humanitarian law has not in practice led to the repression of these crimes.

The decision of the United Nations Security Council to set up an international tribunal to try persons responsible for grave breaches of international humanitarian law committed on the territory of the former Yugoslavia since 1991²⁷ must, for this reason, be considered an important attempt at fulfilling the obligation to punish war criminals. As this new tribunal is the first of its kind to have been set up since those established shortly after the Second World War, it is of the utmost importance that everything should be done to ensure that it functions

²⁷ Resolution 827 of 25 May 1993.

effectively, with the independence essential for justice to be carried out, with respect for the basic guarantees — including those concerning judicial procedure — and in accordance with the provisions relative to applicable law and to the sanctions provided for in the Geneva Conventions and Additional Protocol I.

The establishment of an international tribunal competent to try the war crimes committed in the former Yugoslavia should be only the first step towards the setting-up of a *permanent international penal system*. The work of the United Nations International Law Commission is of current relevance in this respect, especially the preparation of a Code of Offences against the Peace and Security of Mankind. The wider scope of this Code and its envisaged applicability should permit the extension of international repression to crimes committed in *non-international conflicts*.

The International Conference for the Protection of War Victims provides the opportunity to encourage all current and future work aimed at strengthening, at the international level, mechanisms for the repression of war crimes.

4.3 Reparation for damages

Additional Protocol I of 1977 contains one short article entitled “*Responsibility*” (Article 91) which specifies that a party to a conflict which violates the provisions of the 1949 Geneva Conventions or of Protocol I shall, if the case demands, be liable to pay compensation, and that it shall also be responsible for all acts committed by persons forming part of its armed forces.

This article confirms a rule which is today accepted as being part of customary law and was already stated, in almost identical terms, in Article 3 of the Hague Convention No. IV of 1907. Moreover, an article common to the four Geneva Conventions²⁸ emphasizes that no High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred as a result of the commission of grave breaches of the Conventions. This provision entails first of all criminal responsibility, but it also implies that, irrespective of the outcome of an armed conflict, no decision or agreement can dispense a State from the responsibility to make reparation

²⁸ C. I, Art. 51; C. II, Art. 52; C. III, Art. 131; C. IV, Art. 148.

for damages caused to the victims of breaches of international humanitarian law or to pay compensation for those damages.

This responsibility applies first of all in the context of relations among States and has acquired a new dimension with the reaffirmation and development of the rules governing the conduct of hostilities. A State which has laid mines indiscriminately, or which has caused other unlawful damage to the environment, for example, is under the obligation to make reparation (in particular by carrying out mine-clearing operations)²⁹ or pay compensation.

The problems arising in connection with reparation for damages to persons and individual compensation are more complex for the following reasons:

- Application for reparation or compensation can be made only via the State; this often makes the process and its outcome uncertain.
- Although legally a clear distinction should be drawn between them, confusion may arise between damages attributed to violations of the right to engage in warfare (*jus ad bellum*) and those attributed to breaches of international humanitarian law (*jus in bello*), and thus dilute the responsibility to make reparation.
- The international obligation to provide reparation which exists under international humanitarian law does not apply to non-international armed conflicts. However, in the internal situations brought about by these conflicts the national legal mechanisms which should enable victims to obtain reparation or compensation often fail to function adequately.

In practice there are of course cases in which the victims of breaches of international humanitarian law have obtained compensation.³⁰

²⁹ The Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and other Devices, annexed to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons, contains an article on mine-clearing operations upon the cessation of hostilities which seems to be worded with caution (the Parties “*shall endeavour to reach agreement*”). It does not, however, in any way diminish the said obligation since this article is based on the assumption that the mines were used lawfully.

³⁰ Particular mention should be made here of the case of civilians who were interned during the Second World War. Although their situation was not formally covered by the then rules of international humanitarian law, they received and still continue to receive considerable compensation. It should also be noted that the United Nations set up a Compensation Commission, in conformity with Security Council resolution 687 (1991), after the Gulf War.

Nevertheless the vast majority of victims do not receive the compensation to which they are entitled. A shocking example is provided by the innumerable children who have lost a limb to an exploding mine and have not even been granted the modest compensation of an artificial limb.

Of particular interest in this connection is the study by the Sub-Commission of the Commission on Human Rights concerning the right of the victims of flagrant violations of human rights and fundamental freedoms to restitution, compensation and readaptation.³¹

The International Conference for the Protection of War Victims should make it clear that it wishes procedures to be set up to provide reparation for damage inflicted on the victims of violations of international humanitarian law and award compensation to them, so as to enable them to receive the benefits to which they are entitled.

5. Summary of suggested measures to strengthen protection for war victims and respect for international humanitarian law

Violations of international humanitarian law on a massive scale in situations of armed conflict have led to increased suffering and innumerable deaths. A vigorous response to these individual and collective tragedies is needed from the international community. Only through the determined commitment of States can these violations and tragedies be averted.

5.1 Peacetime measures

5.1.1 Promotion of international humanitarian law treaties

All States which have not yet adopted one or other of the international humanitarian law treaties are asked to examine the possibility of

³¹ See the reports and relevant study of the Special Rapporteur (in particular UN document E/CN.4/Sub.2/1992/8).

doing so without delay and to accept fully and without reservations the competence of the International Fact-Finding Commission which was set up in 1992.

The States party to these treaties are invited to participate actively in their promotion.

5.1.2 Adoption of national implementation measures

It is suggested that States undertake to adopt laws and take the necessary measures, at national level, to ensure the effective implementation of the 1949 Geneva Conventions, their Additional Protocols of 1977 and any other international humanitarian law treaties.

Consideration should be given to setting up or activating inter-ministerial commissions, or designating an office or person responsible for keeping track of and coordinating these measures.

5.1.3 Spreading knowledge of international humanitarian law

The ignorance of the humanitarian rules shown by members of the armed forces or armed groups in certain recent conflicts, or their disregard for those rules, should induce every State to consider what precautions it is taking to avoid such excesses. This reflection should focus on two main issues:

- the *coordination* of efforts to spread knowledge of *international humanitarian law* with those undertaken to disseminate the *principles contained in the Charter of the United Nations and human rights principles*, and greater harmonization of efforts in these two domains;
- the *integration of instruction* in international humanitarian law in military training as a whole.

The positive or negative role which the media can play in preventing violations of humanitarian rules or exacerbating tensions merits extensive analysis.

The ICRC is ready to organize one or several meetings to examine in detail the above-mentioned problems and issues.

5.1.4 Explanation and development of international humanitarian law

1) Non-international armed conflict

The dialogue between legal experts and members of the armed forces should be intensified to bring about a consensus on humanitarian rules applicable to the conduct of hostilities, in particular in non-international armed conflicts, a consensus given tangible form in military manuals and instruction.

Consideration should be given to the possibility of formally extending to non-international armed conflicts the applicability of humanitarian rules, such as those relative to the use of mines, which at present apply only to international conflicts.

2) Protection of the environment in time of armed conflict

The States are invited to pay all due attention to the protection of the environment in time of armed conflict, in particular to give careful consideration to the report prepared by the ICRC for the 48th session of the United Nations General Assembly.

3) New weapons technology

The States are under the obligation to ensure that all new weapons are in conformity with the rules of international humanitarian law. Besides working towards disarmament, it is important that they take the forthcoming Conference to review the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons as an opportunity to consider with all due attention the possibility of strengthening the existing restrictions or of introducing new ones.

The ICRC is ready to contribute actively to the preparation of this Conference so as to facilitate its success.

4) International humanitarian law applicable to war at sea

The States are invited to give careful consideration to the report summarizing the findings of the work undertaken under the auspices of the International Institute of Humanitarian Law in San Remo. This work is scheduled for completion in 1994.

5) Marking and identification of persons and property protected under international humanitarian law

All the States party to Additional Protocol I of 1977, but also those which have not yet acceded to it, are invited to take the necessary steps to introduce, at national level, the measures mentioned in Annex I of the Protocol — in which the recognized distinctive signs and signals are defined — as soon as the revised text of the Annex enters into force in January 1994.

6) Relationship between international humanitarian law and disarmament

The Conference on Disarmament and all States are encouraged to pursue and develop all efforts undertaken to restrict the arms trade and to consider measures to be taken, in the framework of disarmament, with respect to weapons, such as anti-personnel mines, whose use is prohibited or restricted under international humanitarian law.

7) Relationship between international humanitarian law and human rights law

An intensified dialogue between those in charge of implementing respectively human rights law and international humanitarian law should be encouraged to reinforce the protection of persons during armed conflicts.

Work undertaken to clarify and strengthen humanitarian norms applicable in internal disturbances and tensions should be supported.

5.2 Action during armed conflicts

The crucial question arising from recent armed conflicts is how the international community should react when the parties to a conflict are unwilling to respect the principles and rules of international humanitarian law, or are incapable of ensuring respect for them.

The International Conference for the Protection of War Victims provides an opportunity to clarify this question.

5.2.1 Action to be taken to ensure respect for international humanitarian law

Consultation is necessary to determine the most appropriate methods and framework for implementation of the States' obligation to *ensure respect* for international humanitarian law, as well as the type of cooperation to be established with the United Nations in the event of serious violations of that law. Further consideration should also be given to the most suitable framework in which a structured multilateral discussion of specific difficulties encountered in its application could take place at regular intervals.

Starting in 1994, the ICRC intends to organize consultations on these subjects with government and UN experts.

5.2.2 Coordination of humanitarian action

Inter-agency consultation for the coordination of humanitarian action should be continued and further improved, for the magnitude of needs requires combined efforts to overcome them.

Besides the need for a coordination of tasks, a *concerted approach* is extremely important to improve the effectiveness and quality of emergency humanitarian action; the work undertaken to draw up a code of conduct for organizations engaged in emergency aid should also be encouraged.

5.2.3 The safety of those engaged in humanitarian action

Any possible recourse to armed escorts in particularly dangerous situations must be based on stringent principles and merits in-depth study.

In countries disrupted by conflict where preparatory instruction in international humanitarian law was not sufficiently provided in peacetime or, even more importantly, in situations where government structures are collapsing, new methods must be found of ensuring that the meaning and purpose of humanitarian action are clearly understood so that such action can take place. Recent experience should be reviewed and new methods adapted to local cultural contexts should be developed.

5.3 Repression and reparation

5.3.1 The International Fact-Finding Commission

It is up to States to avail themselves of the International Fact-Finding Commission in order to enquire into all violations of international humanitarian law, including those committed in non-international armed conflicts, and thereby demonstrate their determination to clarify alleged violations of that law.

5.3.2 Penal sanctions

Most war crimes go unpunished. It is therefore important to take vigorous measures to repress breaches of international humanitarian law.

1) National measures

Measures to repress breaches of international humanitarian law should be incorporated into national penal codes.

Emphasis should be placed on the duty of military commanders to inform their subordinates of the principles and rules of international humanitarian law, to take all feasible measures to prevent breaches and, where necessary, to repress or report any breaches committed to the authorities.

2) International measures

All current and future work aimed at reinforcing means of repressing war crimes, while showing all due respect for the recognized judicial guarantees, should be encouraged and developed. Particular attention should be paid to the possibility of setting up an international war crimes tribunal.

5.3.3 Reparation for damages

The International Conference for the Protection of War Victims should make it clear that it wishes procedures to be set up to provide reparation for damage inflicted on the victims of violations of inter-

national humanitarian law and award compensation to them, so as to enable them to receive the benefits to which they are entitled.

DEATHS OF ICRC STAFF ON MISSION

SIERRA LEONE: TWO ICRC NURSES KILLED IN AMBUSH

On Friday 27 August 1993, at 10.30 a.m. local time, a convoy of the International Committee of the Red Cross was ambushed near the town of Gorahun in Sierra Leone. During the attack two ICRC nurses, Susanne Buser from Switzerland and Sarah Leomy, a local employee, were killed. Another ICRC nurse, Bernadette Peterhans, was injured.

The ICRC convoy was composed of a Land Cruiser and a lorry, both duly marked with the red cross emblem. For the past 18 months the ICRC, in cooperation with the Sierra Leone Red Cross Society, has been providing assistance in that area to more than 10,000 displaced persons.

Susanne Buser was born in 1957 and came from Sissach in the Swiss canton of Basel-Land. She was on her sixth mission for the ICRC and had been working in Sierra Leone since July 1992. Sarah Leomy had been with the assistance operation from the start. Bernadette Peterhans, who was born in 1957 and comes from Fislisbach in the Swiss canton of Aargau, received bullet wounds in one arm. Her life is not in danger.

The ICRC, extremely shocked by this tragedy, conveys its deepest sympathy to the bereaved families. It sharply condemns the attack and the failure to respect the red cross emblem. All ICRC operations in that part of Sierra Leone have immediately been suspended.

TAJIKISTAN: ICRC DELEGATE KILLED IN PLANE ACCIDENT

A delegate of the International Committee of the Red Cross, Michel Kuhn, was killed on 28 August 1993, in a plane crash in Khorog in south-eastern Tajikistan.

Mr. Kuhn, who was 44 years old, had carried out many humanitarian missions for the ICRC since he joined its staff in 1982, in particular in Lebanon, Syria, Iran, Namibia, Sudan, Afghanistan and Nagorny-Karabakh. He was due to leave Tajikistan within the next few days to take up his new ICRC post in Azerbaijan.

The ICRC, greatly distressed by the death of one of its delegates, expresses its deepest sympathy to his family.

International Tracing Service: 50 years of service to humanity

by Charles-Claude Biedermann

A BRIEF HISTORY

Though half a century old this year, the International Tracing Service has lost none of its relevance. In its 50 years of service to humanity, it has clarified the fate and whereabouts of thousands of people, reunited separated families and helped — to the extent that such a thing is possible — to make good the wrong done to those persecuted by the Nazis.

The founding of the International Tracing Service was a direct result of events during the Nazi dictatorship in Germany and the aftermath of the Second World War. In 1933 Adolph Hitler was appointed Chancellor of Germany by the Weimar Republic's President von Hindenburg. This triggered the development of a totalitarian "*Führer* State" in which the Nazis were able, by issuing a series of edicts and decrees, to purge society not only of their political opponents but also of others who were not to their liking, such as Jews.

The "Reich President's Ordinance for the Protection of the People and the State" of 28 February 1933 formed the basis for "preventive detention" and the setting up of concentration camps. One of the fundamental rights abolished under these emergency powers was the inviolability of personal freedom.

The "Law to relieve the distress of the people and the *Reich*" (Enabling Act) of 24 March 1933 freed Adolph Hitler of all constitutional constraint and parliamentary control. Although initially limited to a period of four years, the Act was renewed in 1937 and again in 1939. In May 1943, its force of law was extended indefinitely "by decree of the *Führer*". The mass deportation of Jews from Nazi-occupied territory had already begun in 1941. The Wannsee Conference

then sealed their fate in January 1942 when it adopted the “final solution to the Jewish question in Europe”.

To satisfy the enormous demands of industry, of the arms manufacturers in particular, foreign workers began arriving in the German Reich in 1939. Some were recruited abroad and came more or less voluntarily. The others were brought in by force.

There was at the time no international agreement to safeguard the human dignity of civilians deported or otherwise persecuted by the Nazi regime. Prisoners of war, on the other hand, had the guaranteed right to be treated as human beings thanks to the two 1929 Geneva Conventions and the 1907 Hague Convention No. X (exceptions to this were German POWs in the USSR and Soviet prisoners in Germany, since the Soviet Union was not bound by the 1929 Geneva Convention on the treatment of prisoners of war).

All attempts to bring assistance to concentration camp inmates or forced labourers quartered in camps or private homes were in vain. No lists were available abroad of who was being held where.

The inaccessibility of such people, the lack of records, the many families separated in the chaos of war and the large-scale mass migration — some of it overseas — that was taking place throughout Europe were all of serious concern to the Committee on Displaced Populations of the Allied Post-War Requirement Bureau set up in London during the war years. In 1943, a tracing office was established at the British Red Cross under the direction of Major Eyre Carter of the Foreign Office Relief Department and the decision was taken to set up national tracing services once the still occupied territories of Europe had been liberated, in order to find the deportees and others who could not be accounted for.

Within a year, the Allied military authorities faced the problem of registering displaced civilians in the areas they had liberated. The tracing office was therefore placed under the responsibility of the Supreme Headquarters of the Allied Expeditionary Forces (SHAEF) in Versailles.

SHAEF referred to the deportees as “displaced persons” (or “DPs”) and ordered their names to be entered onto file cards to facilitate the tracing process.

It was also necessary to assemble lists of concentration camp inmates and the registration cards of displaced persons. Much of this work was done by the United Nations Relief and Rehabilitation Administration (UNRRA) formed in Washington by President Roosevelt in 1943.

On 28 June 1945, UNRRA, which was meanwhile also based in Versailles, was moved together with SHAEF to Frankfurt. After SHAEF was disbanded the following month, the tracing office it had been running was taken over by the Combined Displaced Persons Executive and all the documents were henceforth centralized there.

In September of that year, the Allied Control Council gave UNRRA the task of setting up a central tracing bureau to find missing members of the armed forces and civilians of the Allied countries, to gather and store all documents concerning them and to begin reuniting separated families.

Lieutenant-General Sir Frederick E. Morgan, UNRRA Chief of Operations in Germany, suggested on 16 November 1945 that the Central Tracing Bureau be transferred from Frankfurt north to the small Hessian town of Arolsen, with Colonel J.R. Bowring as its director. Arolsen, the former capital of a principality, was chosen because it was centrally situated for the four occupation zones and because it contained large, undamaged buildings and good telegraph and telephone facilities. UNRRA and the Central Tracing Bureau were thus moved in early January 1946 and combined to become the UNRRA Central Tracing Bureau (CTB), Arolsen.

In the previous month the Allies had ordered municipal authorities throughout Germany to draw up lists of the names of nationals of United Nations countries (i.e. members of the anti-Axis alliance) who had been resident in Germany during the war or were then living there in late 1945. Several copies of the resulting lists had to be made and sent in to regional collection points, which in turn forwarded a copy to the Central Tracing Bureau in Arolsen.

UNRRA ceased operations on 1 June 1947 and the Central Tracing Bureau was taken over by the Preparatory Commission of the International Refugee Organization (PCIRO) the following month. At a meeting at its Geneva headquarters in November 1947, the Preparatory Commission decided that the Central Tracing Bureau would be renamed the International Tracing Service (ITS) as of 1 January 1948. And so it has remained until this day. The ITS was run by the International Refugee Organization (IRO) until March 1951.

UNRRA's main task was the repatriation of the many victims of persecution. Extensive damage to the transport network made this a difficult undertaking. As many of the victims for various reasons did not want to return home, the IRO found itself arranging for their emigration.

On 1 April 1951, the International Tracing Service was taken over by the Allied High Commission for Germany (HICOG).

During this time, the International Tracing Service changed premises on several occasions. In 1952 it was decided to give the ITS its own offices. That same year saw the construction of what is still the main building.

When preparations for abrogation of the Occupation Statute began under the Paris Treaties in 1954, a way had to be found to allow the ITS to continue its work.

In May 1955 the Occupation Statute ended and the Convention of 25 May 1952 on Relations between the Three Powers and the Federal Republic of Germany finally came into effect.

The Allied High Commission for Germany was disbanded.

Under the Bonn Agreements of June 1955 between the Western Allies and the Federal Republic of Germany, the latter undertook to finance the International Tracing Service. Under a protocol to the Bonn Agreements, the management and administration of the ITS were entrusted to the International Committee of the Red Cross on account of the latter's humanitarian and neutral character. On 6 June 1955, Dr. Konrad Adenauer, who was then both Federal German Chancellor and Foreign Minister, officially asked ICRC President Paul Ruegger to take up this task.

Since then, the Director of the ITS has always been an ICRC delegate and a Swiss citizen.

Although the justification for the work done by the International Tracing Service and indeed its very existence under those treaties has been repeatedly re-examined, its legal status remains unclear. Clarification would be useful not only for those whom the ITS works to assist but also for its own staff. This alone will enable it to complete its tasks in accordance with its mandate and ensure that its archives will be duly preserved for future generations.

Efforts to that effect are now under way.

The work of the ITS is supervised by an international commission made up of government representatives of Belgium, France, Germany, Greece, Israel, Italy, Luxemburg, the Netherlands, the United Kingdom and the United States.

The International Commission has assigned the ITS four main tasks, i.e. the assembling, classification, evaluation and preservation of personal documents relating to the civilian victims of Nazi persecution, including deportees. These activities make it possible, even after many years, to reunite separated families and issue certificates of detention or forced labour on which compensation or pension claims can then be based. Such information is divulged only to the former victims

themselves, their assigns or the relevant government social-security services.

Assembling

When the International Tracing Service was still being run by UNRRA, hardly any documentation was available to it. Only in 1947/1948, after the ITS came under the direction of the International Refugee Organization, did it come into possession of some of the documents that were recovered by Allied troops when they liberated the concentration camps and were now no longer needed by the International Military Tribunal for the war-crimes trials in Nuremberg.

In addition it received a large number of lists drawn up, on Allied orders, by German municipal authorities between 1946 and 1950 and the post-war material gathered when registering "displaced persons".

Classification

With such an impressive array of documents containing information about people from around the world, a way had to be found of arranging this material in such a manner that when requests were made concerning an individual, all available information could be picked out quickly and easily.

To make the information readily accessible, every single name appearing in the documents has been, and continues to be, placed on index cards which are then filed in alphabetical/phonetic order in a central index of names. This index is still growing and now contains some 45 million reference cards. It is the key to the analysis of the documents used in processing incoming queries and requests, it is the linchpin of the archives in Arolsen.

Preservation

The ITS possesses documents concerning the following categories of victims:

— Germans and non-Germans held in concentration camps or prisons;

- non-Germans deported during the Second World War for forced labour in territory controlled by the Third Reich;
- non-German deportees (“displaced persons”) who were cared for by UN relief organizations after the war.

The files have grown steadily over the years. In 1981, the ITS had the equivalent of 15,670 linear metres (9.7 miles) of documents — calculated standing back to back — at its disposal. By 1992, this figure had increased to 20 kilometres, i.e. almost twelve and a half miles. The fall of the Berlin Wall and the resultant opening up of Eastern Germany enabled the ITS to obtain documents from the territory of the former German Democratic Republic. And in 1989 the first success was achieved in obtaining information from archives in Moscow. The ITS had previously had access to virtually no documentary material from the Soviet sphere of influence. Progress is continuing.

Newly acquired documents are continually being integrated into the archives, a time-consuming process. Before its actual incorporation, new material must first be sorted, labelled and registered. Reference cards are then drawn up indicating names and the document’s whereabouts. Finally, the reference cards are inserted in alphabetical/phonetic order in the Central Index of Names. This last operation ensures that many previous enquirers who have not yet received a positive reply or who have received only incomplete information can later obtain confirmation or supplementary information for certificates already issued.

Apart from integrating new material, documents already in the archives must be carefully preserved (this includes microfilming of the entire collection). Expansion has been necessary over the years to store the documents properly. In 1989, for example, an additional 1,850 square metres (almost 20,000 sq. ft) of office space was required. Most of this has since been provided and the ITS today occupies six buildings in addition to the main building, which was renovated in 1981. All except one are in the centre of Arolsen.

Evaluation

Since 1986 there has been a steady increase in the number of enquiries made to the ITS. In 1988, they exceeded 100,000 for the first time in many years. In 1992, a total of 161,465 enquiries were registered from 57 different countries.

In recent years a change has taken place in the nature of the enquiries. In 1981, for example, the largest category (30%) was requests for certificates of detention. Today, over half are for certificates of employment.

Though the war ended almost fifty years ago, tracing requests still figure prominently in the work of the ITS. In conjunction with National Red Cross Societies around the world, it still manages to reunite families separated during the war.

Classification and evaluation are carried out in several specialized departments, according to subject matter.

The *Concentration Camp Documents Section* provides reports and excerpts from documents for people who were held in concentration camps, other types of camps and prisons.

These excerpts, which bear the official stamp of the International Committee of the Red Cross in Geneva, require no further legal authentication; they are recognized around the world. If there is clear evidence that someone died in a concentration camp and if registry office certification is required, this is provided by a special registry office in Arolsen. Set up on 1 September 1949 at the instigation of the International Tracing Service, the office is run by the Federal German state of Hesse. Documents recording deaths in concentration camps that were not certified at the time by the camp's own registry office are forwarded by the ITS to this special office. There the deaths are entered into a special official register. A death certificate is issued if close relatives of the victim apply for it from the ITS.

In the *Wartime Documents Section*, enquiries are processed for non-Germans who were brought to Germany as forced labourers during the Second World War. The certificates issued by this section serve as proof of whereabouts and employment during that period.

The *Post-War Document Section* deals with enquiries concerning non-Germans — most of whom are today stateless — who were registered between 1945 and 1951 by relief organizations such as UNRRA and the International Refugee Organization in the American, British and French occupation zones of Germany, in Austria and in other countries such as Britain, Italy and Switzerland. The main task of this section is to confirm the place of residence in the post-war period as well as the entitlement to care received from the International Refugee Organization. Residence certificates frequently contain details given by the individual to the respective organization just after the war about where he or she had been living during the conflict. These certificates often represent the only official proof of the person's whereabouts during the Second World War.

The *Child-Tracing Section* handles enquiries from or about non-Germans born from 1927 to 1949 who lived either in Germany during the war or in the American, British or French occupation zones after hostilities ceased. Most enquirers are seeking clarification of their origins, i.e. they are looking for parents and relatives. Those sending in the enquiries are people now in their fifties who feel an ever stronger need to trace their roots. This explains the recent increase in the number of requests for such information. The ITS also helps people to obtain birth and residence certificates. The birth certificates stored in the archives can serve as proof of residence for the child's mother. As they often contain details about the father, they can help him, to obtain a much-needed residence certificate.

The actual *Tracing Section* processes enquiries concerning non-Germans who either went missing in German territory during the war or lost contact with their families in the early post-war period. This section has no archives of its own, but information on persons being sought is often to be found in the files of other sections. For example, if the person in question survived a concentration camp or forced labour, there may well be post-war documents indicating his or her return to the country of origin or emigration abroad.

The tracing process requires not only analysis of the available documents but also involves requests for information from various national authorities and a wide range of organizations throughout the world, including National Red Cross Societies. Since it came into being, the ITS has issued over 7.2 million pieces of information and opened two million files to do so. In all its work, care is taken to protect people's right to privacy. Confidential data remain confidential: information is given only to the individuals concerned or their assigns. When tracing is successful and a person is found, the address is passed on to the enquirer only with that person's express consent.

Provision was made in the Bonn Agreements for the government of every country on the International Commission for the ITS to have its own liaison office with the Service. This is currently the case for Belgium, France, Italy and the United States. The Netherlands has announced that it will be setting up an office before the end of 1993. This presence enables the national authorities of each country better to defend the interests of the former victims of Nazi persecution living there.

The far-reaching political changes of recent years have not only affected the number of enquiries and the countries from which they come (for example, enquiries from the former Soviet Union are sixty times more numerous now than before) but have also sparked debate on the continued existence of the International Tracing Service itself.

Following the conclusion of the so-called two-plus-four talks, the Treaty on the Final Settlement on Germany was signed on 12 September 1990 in Moscow. This superseded the 1952 Convention on Relations between the Three Powers and the Federal Republic of Germany as well as the Convention on the Settlement of Matters Arising out of the War and the Occupation.

Despite the fact that the latter Convention is now no longer in force, the Federal German government confirmed in September 1990 the continuing validity of its provision regarding the ITS (Chapter 7, Article 1):

“Displaced persons and refugees

The Federal Republic of Germany assumes the obligation:

(d) to guarantee the continuation of the work that is presently being carried out by the International Tracing Service”.

The fact that this provision has been upheld shows that the work of the International Tracing Service is as relevant as ever.

Many former forced labourers and other victims of Nazi persecution who today live in the former Soviet Union and Poland have been encouraged by the aforesaid political changes to take a less stoical view of their past and to claim their rights. In many countries new funds are now available for such victims.

Whereas a decade ago about 33,000 enquiries a year arrived at the ITS, it now receives five times as many and can barely cope. Enquirers must now be prepared to wait two years for a conclusive reply, a very unsatisfactory situation — both on humanitarian and other grounds — for all concerned.

The following steps are being taken to prevent the backlog from increasing still further:

- rationalization of the evaluation process;
- overtime work, which would not be possible without special financing provided by the Federal Republic of Germany;
- expansion of existing facilities and installation of new equipment, including of computers (VDUs).

However, the ITS is not out to achieve short-term peak productivity but rather to find the best medium-term solution for providing the most complete information possible, in accordance with the assurances given by its mandate.

The history of the International Tracing Service is the history of half a century of humanitarian endeavour to alleviate the effects of past injustice. The work of the ITS continues in that same spirit.

Charles-Claude Biedermann

Charles-Claude Biedermann studied economics and political science at Basel University before joining the marketing and transport research section at Swiss Federal Railways headquarters in Bern. He later worked as a manager for the public transit system in the city of Basel. Mr. Biedermann became an ICRC delegate in the spring of 1981, and carried out missions in Angola, Jordan and Poland. In 1982 he was appointed Deputy Director of the International Tracing Service in Arolsen, Germany. He has been the Service's Director since 1985.

The International Committee of the Red Cross and the International Tracing Service in Arolsen

by Paul Reynard

The International Committee of the Red Cross was very pleased when the management and administration of the International Tracing Service (ITS) were transferred to it on 6 June 1955. In his address during the signing ceremony, the Chancellor of the Federal Republic of Germany, Mr. Konrad Adenauer, congratulated the ICRC on its willingness "to take over this task in accordance with the spirit of the Geneva Conventions".¹ In reply the President of the ICRC, Mr. Paul Ruegger, thanked the Federal German Chancellor and representatives of the member States of the International Commission for the ITS for the reliance placed in his institution.

A long-standing concern of the ICRC

For the ICRC, things were again simply as they should be. The Service was in fact officially set up in London in 1943 when the Allied Headquarters, deeply concerned about the large number of missing persons already estimated at several million, requested the Foreign Affairs Section of the British Red Cross to set up a tracing bureau to try to find them. Even the Chiefs of Staff themselves, otherwise largely unreceptive — as the ICRC had found out — to any proposals concerning civilians, had been struck by the scale of the civilian tragedy. So although the official establishment by senior military officers of a service to deal with one of the most cruel effects of modern warfare came rather as a surprise, it echoed a long-standing

¹ "Le Service International de Recherches" (The International Tracing Service), *Revue internationale de la Croix-Rouge (RICR)*, No. 440, August 1955, p. 517. (The Review was not published in English until April 1961.)

concern of the International Committee of the Red Cross which, since the turn of the century, had seen its field staff constantly beset by the difficult problem of protecting civilians in wartime. Any proposals to that effect had always been rejected by politicians and military personnel alike; they considered that war was a matter for soldiers and, as such, should never directly affect civilians. "When in 1907, the International Conference in The Hague drafted the first articles concerning military prisoners of war," wrote Mrs. Marguerite Frick-Cramer, a member of the ICRC, "the Japanese delegation suggested that the situation of enemy civilians in the territory of the opposing Power should be examined.[...] This amendment was unanimously rejected, not because the delegates to the Conference were in favour of stringent measures vis-à-vis enemy civilians, but because it was felt that by its very nature it was not a subject for discussion".²

Protecting civilians without legal bases to do so

And yet, all subsequent wars have shown that the concern of the Japanese was far from unrealistic. At the outbreak of the First World War in 1914, no sooner had Dr. Ferrière set up the International Prisoner-of-War Agency than enquiries about "members of families disrupted by the turmoil" began to flood in.³ However, there was no legal basis for giving protection to civilians. Despite this inadequacy of the law and objections by sceptics for whom the launching of an operation without a prior legal basis was inconceivable, "Dr. Ferrière went ahead. He could not contemplate rejecting, as if they had come to the wrong address, people who turned to the International Committee as a neutral, impartial and entirely trustworthy organization, confident that effective help amidst the dire distress of the world could be requested from it alone".⁴ The fact that, during the 1914-18 war, bilateral conventions concerning civilians had occasionally been adopted between belligerents for the duration of the hostilities perhaps gave rise to the hope that permanent international agreements could be concluded once peace had been restored. That was not to be the case.

² Marguerite Frick-Cramer, "Le CICR et les conventions internationales pour les prisonniers de guerre et les civils" (The ICRC and the international conventions for prisoners of war and civilians), Part 2, *RICR*, No. 295, July 1943, p. 568.

³ Georges Werner, "Frédéric Ferrière, 1848-1924", *RICR*, No. 67, July 1924, p. 507.

⁴ *Ibid.*, p. 508.

"All provisions that had been adopted during the war became null and void once the Armistice was signed in 1918".⁵ Peace reigned and the world — chiefly that of the victors — was carried away by the illusion that it would be permanent.

The ICRC did not share this unqualified optimism. It sought to have a text, known as the "Tokyo Draft", adopted in principle for the protection of civilians in wartime, but its efforts received only lukewarm encouragement or no response at all. "At the time, many did not even want to admit that there might be another war and were reluctant to face reality. People were hypnotized by the idea of disarmament. [...] Several highly placed officials intimated to the International Committee of the Red Cross that it was a particularly ill-chosen moment to suggest that governments should draw up statutes for civilians in time of war, saying that such an initiative would be viewed in international circles almost as a betrayal by the Red Cross of the cause of universal peace which was championed by the League of Nations in Geneva itself."⁶

From 1933 onwards the atmosphere changed and the euphoria of the twenties gave way to a feeling of anxiety. Efforts were made to convene a new diplomatic conference without delay to fill a serious gap, but the Second World War broke out before the international community agreed on any definite progress. The ICRC's only option was to show initiative and daring. It managed to have a few minor items adopted from the Tokyo Draft, but for civilians in occupied territories the legal hiatus remained.

Soon the extent of the tragedy became clearer. Millions of families had been dispersed by the maelstrom of war. Exercising its right of initiative, the ICRC had made arrangements to restore contact as far as possible between dispersed family members in the hope that they might one day be reunited. Thus when the tracing office of the Supreme Headquarters of the Allied Expeditionary Forces (SHAEF) was set up in London, the Prisoner-of-War Agency already had a "Dispersed Families Service". As early as July 1943, the ICRC had devised "a standard enquiry card, by which persons who had been obliged to leave their home on account of the war could register and give details of members of their family whom they wished to trace".⁷ This card, known as "P 10,027", was issued in several languages and

⁵ Marguerite Frick-Cramer, *op. cit.*, p. 572.

⁶ *Ibid.*, p. 574.

⁷ *Report of the ICRC on its Activities during the Second World War*, Vol. II, *The Central Agency for Prisoners of War*, p. 309.

sent to a large number of National Red Cross Societies and organizations.

Attempts at cooperation

The ICRC had no intention of making this “Dispersed Families Service” its own exclusive domain and, as soon as “the United Nations Relief and Rehabilitation Administration (UNRRA) was formed at Atlantic City, in November 1943, [it] got in touch with this organization and informed it of the action taken by the Committee to solve the problem here discussed. The Director of UNRRA took formal notice of the communication on December 14, 1943”.⁸ Although in Geneva there was a willingness to cooperate, it was not easy to reconcile UNRRA’s requirements with Red Cross policy. “The ICRC, [...] in the summer of 1945, was invited to come to an agreement whereby the Committee should, as soon as the military authorities gave their sanction, be ready to distribute its registration and tracing cards to the administrative officers of the Displaced Persons camps, especially those in Germany [...] This distribution however excluded former enemies, and could be made only to members of the Allied Nations who had lost all trace of their family ...”.⁹ The ICRC was reluctant to agree to such a condition. If, at the end of the day, it gave in, this was because it hoped thereby to broaden the scope of its work to help dispersed families; “at the time”, the *Report* goes on to state, “it stressed its regret that a whole category of DPs were thus excluded from the issue of P 10,027 cards.”¹⁰ Initially it had a million cards printed with translations into several languages, and then waited...

The ICRC supplanted by UNRRA

However, the military authorities’ go-ahead never came — and not without reason: UNRRA “set up a Central Tracing Bureau, at the

⁸ *Report of the ICRC, op. cit.*, p. 312. See also (a) the correspondence between Mrs. Marguerite Frick-Cramer and Sir Frederick Leith-Ross, member of the Inter-Allied Post-War Requirements Bureau, London, 8 December 1943 (ICRC archives, G 86); (b) the extract from the notes on the discussions of Mr. C.J. Burckhardt and Miss Suzanne Ferrière with Mr. Royall Tyler, special attaché to the United States Legation in Berne, 14 November 1944 (ICRC archives, G 86).

⁹ *Ibid.*, p. 313.

¹⁰ *Ibid.*, p. 313.

beginning of 1946 at Frankfurt, which was later transferred to Arolsen, near Kassel, in the American Zone. The Allies recognized this Bureau as the sole competent body for dealing with cases of displaced persons, thus including dispersed families in the arrangement. The ICRC thus found that the project had been abruptly taken out of its hands, although in its opinion it was better equipped than any other organization to carry out the scheme ...".¹¹ The ICRC's general report on its activities during the Second World War — published in 1948 — clearly shows that the ICRC was not always on the best of terms with the Allied authorities between 1945 and 1948!

The International Refugee Organization (IRO) appoints a delegate from the Committee as head of the ITS

But all was not lost. In 1947, when the IRO was entrusted with the problem of refugees and displaced persons, it appointed Mr. Maurice Thudichum, who was a specialist at the Central Prisoner-of-War Agency and a seasoned ICRC delegate, as head of the ITS, which meanwhile had its offices in Arolsen. Thoroughly acquainted with the tracing and classification system in use at the ICRC, Mr. Thudichum set about building up "an immense central card-index system along the well-tried lines of the Central Prisoner-of-War Agency".¹² The new director was aware that "the existence of the ITS met a desire already evidenced by the ICRC in setting up the CPWA, namely to enable families dispersed by the war to recover a sense of well-being by restoring the links severed by the events [...] In consenting to become director of the ITS, Maurice Thudichum remained true to the course he had followed throughout his work for the ICRC".¹³

The presence of employees who were more of a hindrance than a help was one of the drawbacks about which Mr. Thudichum discreetly complained: "In an international organization such as the IRO, upon which the ITS depends, member States want to have their own people in place even though they have little relation to the needs of the Service".¹⁴ But apart from these irritating intrusions, he could rely on a

¹¹ *Ibid.*, pp. 313-314.

¹² Roehrich, Pierre, *L'esprit et le cœur, récit d'un engagement au service des organisations internationales (BIT, CICR, OIR)*, Geneva, June 1991, p. 105 (ICRC library, 362.191/1088).

¹³ Roehrich, *op. cit.*, p. 106.

¹⁴ *Ibid.*, p. 108.

competent and dedicated staff who helped him to imbue the ITS' work with a humanitarian spirit entirely compatible with the ethical principles of Geneva; he managed to do so despite the Cold War, a considerable obstacle which deprived the Tracing Service of countless precious documents.

Although the IRO was always understood to be a temporary body, arrangements to close it down were nonetheless somewhat precipitate as the donors' attention had turned to financing the expenses incurred by the Korean War, which had just broken out. Consequently, the very existence of the ITS was called into question. Mr. Thudichum, who was convinced that the Tracing Service was by nature a virtually permanent institution, suggested to the IRO that it be placed under the responsibility of the ICRC. The Committee, likewise convinced of the need to continue its work, which rendered service to countless families, was certainly interested in the proposal. It did, however, have to set conditions. On the one hand, the financial means at its disposal were scarcely sufficient to cover the costs of such an undertaking and, on the other hand, it was concerned that its independence might be impaired; it attached great importance, in particular, to having all the documents required for tracing, whereas many of them were still in the hands of the occupying forces, who tended to restrict access to them. Since these conditions could not be met, the ITS came under the control of the Western Occupying Powers and had to contend with severe budgetary constraints. "It is because States have money only for preparing for war",¹⁵ wrote Mr. Thudichum. Although somewhat disillusioned, he agreed to stay on in Arolsen until September 1951 to ensure that the transition took place as smoothly as possible.

The ICRC at last...

So the ITS continued its activities under the auspices of the Allied High Commission for Germany until Germany regained full sovereignty, when the Powers concerned handed over responsibility for the ITS to the International Committee of the Red Cross, "considering the ICRC's impartial and universal character and its suitability to undertake such a responsibility".¹⁶ "I have given too much of myself

¹⁵ *Ibid.*, p. 116.

¹⁶ "Le Service International de Recherches", *op. cit.*, p. 515.

to the ITS not to be happy at this renewed transition”,¹⁷ noted Mr. Thudichum. He was all the more pleased because Mr. Nicolas Burckhardt, another experienced ICRC delegate who, like himself, was used to the methods of the Central Tracing Agency in Geneva, was taking over as Director.

Subsequent directors have not failed to live up to the institution’s great ideals. Was it not Chancellor Adenauer’s wish to see the ITS remaining faithful to “the spirit of the Geneva Conventions”?¹⁸

Paul Reynard

Paul Reynard studied theology and philosophy. He was an ICRC delegate from 1967 to 1972 and was in charge of the recruitment delegates from 1972 to 1985. He is currently working on a historical research assignment.

¹⁷ Roehrich, *op. cit.*, p. 118.

¹⁸ “Le Service International de Recherches”, *op. cit.*, p. 517.

**Declaration of succession
by the former Yugoslav Republic of Macedonia
to the Geneva Conventions
and their Additional Protocols**

On 1 September 1993, the former Yugoslav Republic of Macedonia deposited with the Swiss Government a declaration of succession to the Geneva Conventions of 12 August 1949 and the two Additional Protocols of 8 June 1977. These instruments were already applicable to the territory of the former Yugoslav Republic of Macedonia by virtue of their ratification by the Socialist Federal Republic of Yugoslavia on 21 April 1950 and 11 June 1979 respectively.

In accordance with international practice, the four Conventions and the two Protocols came into force for the former Yugoslav Republic of Macedonia retroactively on 8 September 1991, the date of the Republic's independence.

The former Yugoslav Republic of Macedonia is the **182nd** State to become party to the Geneva Conventions. It is the **127th** State party to Protocol I and the **118th** to Protocol II.

The instrument of succession was accompanied by a declaration regarding the acceptance by the former Yugoslav Republic of Macedonia of the competence of the International Fact-Finding Commission, under Article 90 of Protocol I. The former Yugoslav Republic of Macedonia is the **36th** State to make the declaration concerning the Commission.

**Accession to Protocol I
by the Republic of Colombia**

The Republic of Colombia acceded on 1 September 1993 to Protocol I additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, adopted in Geneva on 8 June 1977.

Pursuant to its provisions, Protocol I will come into force for the Republic of Colombia on 1 March 1994.

This accession brings to **128** the number of States party to Protocol I.

Accession of the Republic of Georgia to the Geneva Conventions and their Additional Protocols

On 14 September 1993, the Republic of Georgia acceded to the four Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977.

The Republic of Georgia is the **183rd** State party to the Geneva Conventions. It is the **129th** State party to Protocol I and the **119th** to Protocol II.

Accession of the Principality of Andorra to the Geneva Conventions

On 17 September 1993, the Principality of Andorra acceded to the four Geneva Conventions of 12 August 1949.

This instrument will come into force for the Principality of Andorra on 17 March 1994.

The Principality of Andorra is the **184th** State party to the Geneva Conventions.

ADDRESSES OF NATIONAL RED CROSS AND RED CRESCENT SOCIETIES

- AFGHANISTAN — Afghan Red Crescent Society, Puli Hartan, *Kabul*.
- ALBANIA — Albanian Red Cross, Rue Qamil Guranjaku No. 2, *Tirana*.
- ALGERIA (People's Democratic Republic of) — Algerian Red Crescent, 15 bis, boulevard Mohamed V, *Algiers*.
- ANGOLA — Angola Red Cross, Av. Hoji Ya Henda 107, 2. andar, *Luanda*.
- ANTIGUA AND BARBUDA — The Antigua and Barbuda Red Cross Society, P.O. Box 727, *St. Johns*.
- ARGENTINA — The Argentine Red Cross, H. Yrigoyen 2068, 1089 *Buenos Aires*.
- AUSTRALIA — Australian Red Cross Society, 206, Clarendon Street, *East Melbourne 3002*.
- AUSTRIA — Austrian Red Cross, Wiedner Hauptstrasse 32, Postfach 39, 1041, *Vienna 4*.
- BAHAMAS — The Bahamas Red Cross Society, P.O. Box N-8331, *Nassau*.
- BAHRAIN — Bahrain Red Crescent Society, P.O. Box 882, *Manama*.
- BANGLADESH — Bangladesh Red Crescent Society, 684-686, Bara Magh Bazar, G.P.O. Box No. 579, *Dhaka*.
- BARBADOS — The Barbados Red Cross Society, Red Cross House, Jemmotts Lane, *Bridgetown*.
- BELGIUM — Belgian Red Cross, 98, chaussée de Vleurgat, 1050 *Brussels*.
- BELIZE — Belize Red Cross Society, P.O. Box 413, *Belize City*.
- BENIN (Republic of) — Red Cross of Benin, B.P. No. 1, *Porto-Novo*.
- BOLIVIA — Bolivian Red Cross, Avenida Simón Bolívar, 1515, *La Paz*.
- BOTSWANA — Botswana Red Cross Society, 135 Independence Avenue, P.O. Box 485, *Gaborone*.
- BRAZIL — Brazilian Red Cross, Praça Cruz Vermelha No. 10-12, *Rio de Janeiro*.
- BULGARIA — Bulgarian Red Cross, 93, Dondukov Boulevard, 1527 *Sofia*.
- BURKINA FASO — Burkina Be Red Cross Society, B.P. 340, *Ouagadougou*.
- BURUNDI — Burundi Red Cross, P.O. Box 324, *Bujumbura*.
- CAMEROON — Cameroon Red Cross Society, rue Henri-Dunant, P.O.B 631, *Yaoundé*.
- CANADA — The Canadian Red Cross Society, 1800 Alta Vista Drive, *Ottawa*, Ontario K1G 4J5.
- CAPE VERDE — Red Cross of Cape Verde, Rua Unidade-Guiné-Cabo Verde, P.O. Box 119, *Praia*.
- CENTRAL AFRICAN REPUBLIC — Central African Red Cross Society, B.P. 1428, *Bangui*.
- CHAD — Red Cross of Chad, B.P. 449, *N'Djamena*.
- CHILE — Chilean Red Cross, Avenida Santa Maria No. 0150, Correo 21, Casilla 246-V., *Santiago de Chile*.
- CHINA — Red Cross Society of China, 53, Ganmian Hutong, 100 010 *Beijing*.
- COLOMBIA — Colombian Red Cross Society, Avenida 68, No. 66-31, Apartado Aéreo 11-10, *Bogotá D.E.*
- CONGO — Congolese Red Cross, place de la Paix, B.P. 4145, *Brazzaville*.
- COSTA RICA — Costa Rica Red Cross, Calle 14, Avenida 8, Apartado 1025, *San José*.
- CÔTE D'IVOIRE — Red Cross Society of Côte d'Ivoire, B.P. 1244, *Abidjan*.
- CUBA — Cuban Red Cross, Calle Prado 206, Colón y Trocadero, *Habana 1*.
- DENMARK — Danish Red Cross, 27 Blegdamsvej, Postboks 2600, 2100 *København Ø*.
- DJIBOUTI — Red Crescent Society of Djibouti, B.P. 8, *Djibouti*.
- DOMINICA — Dominica Red Cross Society, P.O. Box 59, *Roseau*.
- DOMINICAN REPUBLIC — Dominican Red Cross, Apartado postal 1293, *Santo Domingo*.
- ECUADOR — Ecuadorean Red Cross, Av. Colombia y Elizalde Esq., *Quito*.
- EGYPT — Egyptian Red Crescent Society, 29, El Galaa Street, *Cairo*.
- EL SALVADOR — Salvadorean Red Cross Society, 17C. Pte y Av. Henri Dunant, Apartado Postal 2672, *San Salvador*.
- ESTONIA — Estonia Red Cross, Lai Street, 17, EE001 *Tallin*.
- ETHIOPIA — Ethiopian Red Cross Society, Ras Desta Damtew Avenue, *Addis Ababa*.
- FIJI — Fiji Red Cross Society, 22 Gorrie Street, P.O. Box 569, *Suva*.
- FINLAND — Finnish Red Cross, Tehtaankatu, 1 A. P.O. Box 168, 00141 *Helsinki 14/15*.
- FRANCE — French Red Cross, 1, place Henry-Dunant, F-75384 *Paris*, CEDEX 08.
- GAMBIA — The Gambia Red Cross Society, P.O. Box 472, *Banjul*.
- GERMANY — German Red Cross, Friedrich-Erbert-Allee 71, Postfach 1460, 5300 *Bonn 1*.
- GHANA — Ghana Red Cross Society, Ministries Annex Block A3, P.O. Box 835, *Accra*.
- GREECE — Hellenic Red Cross, rue Lycavittou, 1, *Athens 10672*.
- GRENADA — Grenada Red Cross Society, P.O. Box 551, *St George's*.
- GUATEMALA — Guatemalan Red Cross, 3.ª Calle 8-40, Zona 1, *Ciudad de Guatemala*.
- GUINEA — Red Cross Society of Guinea, P.O. Box 376, *Conakry*.
- GUINEA-BISSAU — Red Cross Society of Guinea-Bissau, rua Justino Lopes N.º 22-B, *Bissau*.
- GUYANA — The Guyana Red Cross Society, P.O. Box 10524, Eve Leary, *Georgetown*.
- HAITI — Haitian National Red Cross Society, place des Nations Unies, (Bicentenaire), B.P. 1337, *Port-au-Prince*.

- HONDURAS — Honduran Red Cross, 7.^a Calle, 1.^a y 2.^a Avenidas, *Comayagüela*.
- HUNGARY — Hungarian Red Cross, V. Arany János utca, 31, 1367 Budapest 51. Pf. 121.
- ICELAND — Icelandic Red Cross, Raudararstigur 18, 105 Reykjavík.
- INDIA — Indian Red Cross Society, 1, Red Cross Road, New Delhi 110001.
- INDONESIA — Indonesian Red Cross Society, Jl. Gatot subroto Kar. 96, Jakarta Selatan 12790, P.O. Box 2009, *Jakarta*.
- IRAN, ISLAMIC REPUBLIC OF — The Red Crescent Society of the Islamic Republic of Iran, Avenue Ostad Nejatollahi, *Tehran*.
- IRAQ — Iraqi Red Crescent Society, Mu'ari Street, Mansour, *Baghdad*.
- IRELAND — Irish Red Cross Society, 16, Merrion Square, *Dublin 2*.
- ITALY — Italian Red Cross, 12, via Toscana, 00187 Rome.
- JAMAICA — The Jamaica Red Cross Society, 76, Arnold Road, *Kingston 5*.
- JAPAN — The Japanese Red Cross Society, 1-3, Shiba-Daimon, I-chome, Minato-Ku, *Tokyo 105*.
- JORDAN — Jordan National Red Crescent Society, P.O. Box 10001, *Amman*.
- KENYA — Kenya Red Cross Society, P.O. Box 40712, *Nairobi*.
- KOREA (Democratic People's Republic of) — Red Cross Society of the Democratic People's Republic of Korea, Ryonhwa 1, Central District, *Pyeongyang*.
- KOREA (Republic of) — The Republic of Korea National Red Cross, 32-3Ka, Nam San Dong, Choong-Ku, *Seoul 100-043*.
- KUWAIT — Kuwait Red Crescent Society, P.O. Box 1359 Safat.
- LAO PEOPLE'S DEMOCRATIC REPUBLIC — Lao Red Cross, B.P. 650, *Vientiane*.
- LATVIA — Latvian Red Cross Society, 28, Skolas Street, 226 300 *Riga*.
- LEBANON — Lebanese Red Cross, rue Spears, *Beirut*.
- LESOTHO — Lesotho Red Cross Society, P.O. Box 366, *Maseru 100*.
- LIBERIA — Liberian Red Cross Society, National Headquarters, 107 Lynch Street, 1000 *Monrovia 20*.
- LIBYAN ARAB JAMAHIRIYA — Libyan Red Crescent, P.O. Box 541, *Benghazi*.
- LIECHTENSTEIN — Liechtenstein Red Cross, Heiliggrenz, 9490 *Vaduz*.
- LITHUANIA — Lithuanian Red Cross Society, Gedimino Ave 3a, 2600 *Vilnius*.
- LUXEMBOURG — Luxembourg Red Cross, Parc de la Ville, B.P. 404, 2014 *Luxembourg*.
- MADAGASCAR — Malagasy Red Cross Society, 1, rue Patrice Lumumba, 101, *Antananarivo*.
- MALAWI — Malawi Red Cross Society, Conforzi Road, P.O. Box 983, *Lilongwe*.
- MALAYSIA — Malaysian Red Crescent Society, JKR 32 Jalan Nipah, off Jalan Ampang, *Kuala Lumpur 55000*.
- MALI — Mali Red Cross, B.P. 280, *Bamako*.
- MAURITANIA — Mauritanian Red Crescent, B.P. 344, avenue Gamal Abdel Nasser, *Nouakchott*.
- MAURITIUS — Mauritius Red Cross Society, Ste Thérèse Street, *Curepipe*.
- MEXICO — Mexican Red Cross, Calle Luis Vives 200, Col. Polanco, *México 10*, D.F.
- MONACO — Red Cross of Monaco, 27 boul. de Suisse, *Monte Carlo*.
- MONGOLIA — Red Cross Society of Mongolia, Central Post Office, Post Box 537, *Ulaanbaatar*.
- MOROCCO — Moroccan Red Crescent, B.P. 189, *Rabat*.
- MOZAMBIQUE — Mozambique Red Cross Society, Caixa Postal 2986, *Maputo*.
- MYANMAR (The Union of) — Myanmar Red Cross Society, 42, Strand Road, *Yangon*.
- NAMIBIA — Namibia Red Cross Society, P.O.B. 346, *Windhoek*.
- NEPAL — Nepal Red Cross Society, Tahachal Kalimati, P.B. 217, *Kathmandu*.
- NETHERLANDS — The Netherlands Red Cross, P.O. Box 28120, 2502 KC *The Hague*.
- NEW ZEALAND — The New Zealand Red Cross Society, Red Cross House, 14 Hill Street, *Wellington 1*.
- NICARAGUA — Nicaraguan Red Cross, Apartado 3279, *Managua D.N.*
- NIGER — Red Cross Society of Niger, B.P. 11386, *Niamey*.
- NIGERIA — Nigerian Red Cross Society, 11 Eko Akete Close, off St. Gregory's Rd., P.O. Box 764, *Lagos*.
- NORWAY — Norwegian Red Cross, P.O. Box 6875, St. Olavspl. 0130 *Oslo 1*.
- PAKISTAN — Pakistan Red Crescent Society, National Headquarters, Sector H-8, *Islamabad*.
- PANAMA — Red Cross Society of Panama, Apartado Postal 668, *Panamá 1*.
- PAPUA NEW GUINEA — Papua New Guinea Red Cross Society, P.O. Box 6545, *Boroko*.
- PARAGUAY — Paraguayan Red Cross, Brasil 216, esq. José Berges, *Asunción*.
- PERU — Peruvian Red Cross, Av. Caminos del Inca y Av. Nazarenas, Urb. Las Gardénias — Surco — Apartado 1534, *Lima 100*.
- PHILIPPINES — The Philippine National Red Cross, Bonifacio Drive, Port Area, P.O. Box 280, *Manila 2803*.
- POLAND (The Republic of) — Polish Red Cross, Mokotowska 14, 00-950 *Warsaw*.
- PORTUGAL — Portuguese Red Cross, Jardim 9 Abril, 1 a 5, 1293 *Lisbon*.
- QATAR — Qatar Red Crescent Society, P.O. Box 5449, *Doha*.
- ROMANIA — Red Cross of Romania, Strada Biserica Amzei, 29, *Bucharest*.
- RUSSIAN FEDERATION — The Russian Red Cross Society, Tcheremushkinski Proezd 5, 117036 *Moscow*.
- RWANDA — Rwandese Red Cross, B.P. 425, *Kigali*.
- SAINT KITTS AND NEVIS — Saint Kitts and Nevis Red Cross Society, Red Cross House, Horsford Road, *Basseterre*.
- SAINT LUCIA — Saint Lucia Red Cross, P.O. Box 271, *Castries*.
- SAINT VINCENT AND THE GRENADINES — Saint Vincent and the Grenadines Red Cross Society, P.O. Box 431, *Kingstown*.
- SAN MARINO — Red Cross of San Marino, Via Scialoja, Cailungo, *San Marino 470 31*.
- SÃO TOME AND PRINCE — Sao Tome and Principe Red Cross, C.P. 96, *São Tomé*.
- SAUDI ARABIA — Saudi Arabian Red Crescent Society, *Riyadh 11129*.

- SENEGAL — Senegalese Red Cross Society, Bd Franklin-Roosevelt, P.O.B. 299, *Dakar*.
- SEYCHELLES — Seychelles Red Cross Society, P.O.B. 52, *Mahé*.
- SIERRA LEONE — Sierra Leone Red Cross Society, 6, Liverpool Street, P.O.B. 427, *Freetown*.
- SINGAPORE — Singapore Red Cross Society, Red Cross House, 15 Penang Lane, *Singapore 0923*.
- SOLOMON ISLANDS — The Solomon Islands Red Cross Society, P.O. Box 187, *Honiara*.
- SOMALIA (Somali Democratic Republic) — Somali Red Crescent Society, P.O. Box 937, *Mogadishu*.
- SOUTH AFRICA — The South African Red Cross Society, Essanby House 6th Floor, 175 Jeppe Street, P.O.B. 8726, *Johannesburg 2000*.
- SPAIN — Spanish Red Cross, Rafael Villa, s/n, (Vuelta Ginés Navarro), El Plantío, 28023 *Madrid*.
- SRI LANKA — The Sri Lanka Red Cross Society, 106, Dharmapala Mawatha, *Colombo 7*.
- SUDAN — The Sudanese Red Crescent, P.O. Box 235, *Khartoum*.
- SURINAME — Suriname Red Cross, Gravenberchstraat 2, Postbus 2919, *Paramaribo*.
- SWAZILAND — Baphalali Swaziland Red Cross Society, P.O. Box 377, *Mbabane*.
- SWEDEN — Swedish Red Cross, Box 27 316, 102-54 *Stockholm*.
- SWITZERLAND — Swiss Red Cross, Rainmattstrasse 10, B.P. 2699, 3001 *Berne*.
- SYRIAN ARAB REPUBLIC — Syrian Arab Red Crescent, Bd Mahdi Ben Barake, *Damascus*.
- TANZANIA, UNITED REPUBLIC OF — Tanzania Red Cross National Society, Upanga Road, P.O.B. 1133, *Dar es Salaam*.
- THAILAND — The Thai Red Cross Society, Paribatra Building, Central Bureau, Rama IV Road, *Bangkok 10330*.
- TOGO — Togolese Red Cross, 51, rue Boko Soga, P.O. Box 655, *Lomé*.
- TONGA — Tonga Red Cross Society, P.O. Box 456, *Nuku' Alofa*.
- TRINIDAD AND TOBAGO — The Trinidad and Tobago Red Cross Society, P.O. Box 357, *Port of Spain*.
- TUNISIA — Tunisian Red Crescent, 19, rue d'Angleterre, *Tunis 1000*.
- TURKEY — The Turkish Red Crescent Society, Genel Baskanligi, Karanfil Sokak No. 7, 06650 Kizilay-*Ankara*.
- UGANDA — The Uganda Red Cross Society, Plot 97, Buganda Road, P.O. Box 494, *Kampala*.
- UNITED ARAB EMIRATES — The Red Crescent Society of the United Arab Emirates, P.O. Box No. 3324, *Abu Dhabi*.
- UNITED KINGDOM — The British Red Cross Society, 9, Grosvenor Crescent, *London, S.W.1X. 7EJ*.
- UNITED STATES OF AMERICA — American Red Cross, 17th and D Streets, N.W., *Washington, D.C. 20006*.
- URUGUAY — Uruguayan Red Cross, Avenida 8 de Octubre 2990, *Montevideo*.
- VENEZUELA — Venezuelan Red Cross, Avenida Andrés Bello, N.º 4, Apartado 3185, *Caracas 1010*.
- VIET NAM — Red Cross of Viet Nam, 68, rue Ba-Triêu, *Hanoi*.
- WESTERN SAMOA — Western Samoa Red Cross Society, P.O. Box 1616, *Apia*.
- YEMEN — Yemeni Red Crescent Society, P.O. Box 1257, *Sana'a*.
- YUGOSLAVIA — Red Cross of Yugoslavia, Simina ulica broj 19, 11000 *Belgrade*.
- ZAIRE — Red Cross Society of the Republic of Zaire, 41, av. de la Justice, Zone de la Gombe, B.P. 1712, *Kinshasa*.
- ZAMBIA — Zambia Red Cross Society, P.O. Box 50 001, 2837 Saddam Hussein Boulevard, Longacres, *Lusaka*.
- ZIMBABWE — The Zimbabwe Red Cross Society, P.O. Box 1406, *Harare*.

The *International Review of the Red Cross* is the official publication of the International Committee of the Red Cross. It was first published in 1869 under the title "Bulletin international des Sociétés de secours aux militaires blessés", and then "Bulletin international des Sociétés de la Croix-Rouge".

The *International Review of the Red Cross* is a forum for reflection and comment and serves as a reference work on the mission and guiding principles of the International Red Cross and Red Crescent Movement. It is also a specialized journal in the field of international humanitarian law and other aspects of humanitarian endeavour.

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The *International Review of the Red Cross* is published every two months, in four main editions:

French: REVUE INTERNATIONALE DE LA CROIX-ROUGE (since October 1869)

English: INTERNATIONAL REVIEW OF THE RED CROSS (since April 1961)

Spanish: REVISTA INTERNACIONAL DE LA CRUZ ROJA (since January 1976)

Arabic: المجلة الدولية للصليب الأحمر

(since May-June 1988)

Selected articles from the main editions have also been published in German under the title *Auszüge* since January 1950.

EDITOR: Jacques Meurant, D. Pol. Sci.

ADDRESS: International Review of the Red Cross

19, avenue de la Paix

1202 Geneva, Switzerland

SUBSCRIPTIONS: one year, 30 Swiss francs or US\$ 18

single copy, 5 Swiss francs

Postal cheque account No. 12 - 1767-1 Geneva

Bank account No. 129.986.0, Swiss Bank Corporation, Geneva

The *International Committee of the Red Cross (ICRC)* and the *International Federation of Red Cross and Red Crescent Societies*, together with the *National Red Cross and Red Crescent Societies*, form the International Red Cross and Red Crescent Movement.

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FOR THE PROTECTION OF
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